

COUNCIL MEETING

SEPTEMBER 26, 2012

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair at the Council Chambers, 4396 Rice Street, Room 201, Līhu'e, Kaua'i, on Wednesday, September 26, 2012 at 9:08 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Dickie Chang
Honorable KipuKai Kuali'i
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

Chair Furfaro: As you heard me speak to the audience, it is my intent that after we get through the consent calendar, to take Councilmember Kuali'i's Resolution first. Those in the audience, I would like to ask you to sign up if you may, it will help us greatly.

APPROVAL OF AGENDA.

Mr. Chang moved for approval of the agenda as circulated, seconded by Mr. Rapozo.

Chair Furfaro: Please also note on page 5 there is a correction of a tax key number, it reads as "3-6-304-09" it should in fact reflect "3-6-04-09," could we make that change accordingly.

Ms. Yukimura: So, just deleting the "3" right?

Chair Furfaro: Yes. Is everyone correction that? That would be the agenda with the amendment.

RICKY WATANABE, County Clerk: Mr. Chair, there was another correction and that item is C 2012-384 on page 4 and it is the last bullet on that item. It should read, "mutual quitclaim deed with grantor being State of Hawai'i for Parcel C."

Chair Furfaro: I am sorry, I do have that correction offered by the Attorney's, and I will circulate it, my fault. So, there is a second amendment.

Ms. Yukimura: Just to make sure that I have the right item, it is page 4, item 384?

Mr. Watanabe: Yes.

Ms. Yukimura: And it is the last bullet?

Mr. Watanabe: Yes.

Ms. Yukimura: We cross out "County of Kaua'i?"

Mr. Watanabe: Correct.

Ms. Yukimura: So, the grantor is just the State of Hawai'i?

Chair Furfaro: Yes.

Mr. Watanabe: And the documents are accurate.

Chair Furfaro: If anyone would like to view that amendment, I have it. The agenda with 2 amendments, may I have an approval?

Ms. Yukimura moved to approved as amended, seconded by Mr. Chang, and unanimously carried.

MINUTES of the following meetings of the Council:

Council Meeting of August 22, 2012
Special Council Meeting of August 29, 2012
Council Workshop of September 6, 2012

Ms. Yukimura moved to approve the Minutes as circulated, seconded by Ms. Nakamura, and unanimously carried.

CONSENT CALENDAR:

C 2012-371 Communication (08/21/2012) from the Planning Director, transmitting for Council consideration, the Planning Commission's recommendation to amend the Zoning Designation in Līhu'e, Kaua'i, from "Open District (O)" to "Residential District (R-1)/Special Treatment – Public District (ST-P)," Tax Map Key: (4) 3-8-005: Portion, Līhu'e, Kaua'i. Department of Water, County of Kaua'i, Applicant: Mr. Rapozo moved to receive C 2012-371 for the record, seconded by Mr. Chang, and unanimously carried.

C 2012-372 Communication (09/20/2012) from Councilmember Kualii, transmitting for Council consideration a Resolution urging the 2013 Hawai'i State Legislature to repeal Chapter 171C of the Hawai'i Revised Statutes (Act 55, Session Laws of Hawai'i 2011) relating to the Department of Land and Natural Resources and the Public Land Development Corporation (PLDC): Mr. Rapozo moved to receive C 2012-372 for the record, seconded by Mr. Chang, and unanimously carried.

There being no objections, Resolution No. 2012-52 was taken out of order.

Resolution No. 2012-52, RESOLUTION URGING THE 2013 HAWAII STATE LEGISLATURE TO REPEAL CHAPTER 171C OF THE HAWAII REVISED STATUTES (ACT 55, SESSION LAWS OF HAWAII 2011) RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE PUBLIC LAND DEVELOPMENT CORPORATION (PLDC): Mr. Bynum moved to approve Resolution No. 2012-52, seconded by Mr. Kualii.

Chair Furfaro: Mr. Clerk, so note from the Council Chair that I have 42 correspondences on this subject matter and all are in support of the appeal?

Mr. Watanabe:

Yes, it is.

Mr. Kualii: I want to thank you, Mr. Chair for expediting the Resolution and getting it on the agenda so quickly for our people. The one thing I did want to say with humility is that this is not my Resolution, this is the peoples Resolution and it came about a few weeks ago when I was sitting in the back of the cafeteria and listening to all the testimony from our citizens when the Public Land Development Corporation Representative, Executive Director, came to Kaua'i to get our input on the rules of how they would be implementing this law that was already in place. From that night on, the peoples voice have been overwhelming and powerful and all calling for the repeal of this law. Basically, I just wanted to say this law creates a corporation that is lead by 5 individual decision makers and this corporation charge would be to privately develop in partnership – public lands that are held in trust for the Hawaiian people by the Department of Land and Natural Resources and by the Office of Hawaiian Affairs. The potential for so many things to go wrong with this – this is just opening the flood gates and I respect that the Legislature and the Governor were – their initial intent was correct in that they were trying to do the right thing and that the State is in fiscal constraints and they need more money to do the important work of enforcement by the Department of Land and Natural Resources and the protection of our critical environment and natural resources. One of the testifiers said, "I need money too, I am not going to sell off my children to child labor." I think there are important choices that we have to make as a State with regards to the budget and clearly the people are responding in that this is not the right choice to make and that if you have specific proposals to do public/private partnership development, then come forward with that. Do not create a blanket law that would allow all kinds of stuff to happen that would harm our lands and our people. The thing I would finish with are a couple of testimonies that I got that reads, "this law is misguided, inappropriate and the deposed by the vast majority on Kaua'i and throughout the State." "This law fails to protect our environment and cultural traditions." "This law bypasses County oversight and community concerns, putting the will of a few people over the many." The State does not own any land and has no jurisdiction over public land unless explicitly authorized by the public. Just this morning, I got some testimony from the Office of Hawaiian Affairs and they basically are rise and strong opposition with many serious concerns and I think they were the first to chime in when this law was first passed and they tried to pass some laws of their own asking for consideration of the impacts to Native Hawaiian traditional and customary practices. Those bills, from the last session did not even get on the... did not even receive a hearing. They anticipate being back to... again... ask for the repeal. There strong support there from the lead representation of the Hawaiian community. Today, I hope that this Council and I feel good that we will pass this Resolution unanimously for the people.

Chair Furfaro: I want to say to the public that we have a very full calendar today but at the request of Councilmember KipuKai, I was more than willing to move this up on the agenda as soon as possible. I am going to ask that we stay within the time limits for your testimony today and I will give the same commentary to the Councilmembers according to our rules.

There being no objections, the rules were suspended.

RICH HOEPPNER: Act 55 will have the same negative effects on our island that Act 2 would have had. When the State Legislature and the Governor

sign bills into law that overturn County zoning laws and County Charter provisions, there should be resistance to what the State is doing. Councilmember Kualii has presented a Resolution that should be passed unanimously without amendments, and be ready to file in Court if any actions are taken under the PLDC that overrule Kaua'i County ordinances or Charter. I have a question for Chair Furfaro... I presented a Resolution similar to this on the National Defense Authorization Act, which completely obliterated (inaudible) rights and I received the letter and reply...

Chair Furfaro: First of all, you did receive the letter and reply from both Councilmember Kualii and myself, it was a joint response.

Mr. Hoepfner: And that response was that such a Resolution would somehow limit Native Hawaiian sovereignty rights which I totally did not understand. I sent a letter return – my question is with that reasoning, is this ordinance going to have the same effect on Native Hawaiian sovereignty rights that the other Resolution would have had?

Chair Furfaro: Councilmember Kualii does in fact actively participate in issues dealing with our Native Hawaiians. That particular response was one that he raised in our joint response to you and we have sent questions out for other interpretations. I do not have them for you but that how we responded to you which required other communications.

Mr. Hoepfner: I appreciate Councilmember Kualii's Resolution and hopefully this will be passed.

GLENN MICKENS: Good morning. I totally agree with those in the public who want to repeal Chapter 171C of HRS Act 55. This Act can totally give developers the right to use Kaua'i lands for any purpose that betters them – bottom line. As well as negatively impacting lands belonging to our Native Hawaiians. I applaud Councilmember Kualii for introducing this Resolution and even our Senator Ron Kouichi who voted for this Act, is on the record saying that there are flaws in it that certainly need changing. Hopefully, all the letters that you got have been unanimous so far that they want this thing repeal and I believe the same thing.

Ms. Nakamura: There are some urban lands on O'ahu like the Alawai Boat Harbor and some of the schools that are not highly used in urban areas that have development potential in very specific locations where it is developed already and there is a possibility doing some money generation, so that we do not have to raise State taxes. In those limited situations, would you support this type of power?

Mr. Mickens: Yes. If it is going to benefit the people – anything to do that where it is Native Hawaiians... if it benefits the people, I would be for it. If there any things in this that need modification – amending, I would definitely be for it but basically the way it is now written, I think it gives too much power to these developments.

HOPE KALLAI: Good morning. I felt the need to speak up and addressing the former question about existing leases. I believe that DLNR does have existing lease structure ability with criteria in place for their existing leases that have cultural scrutiny, social economic and I do not really understand the need to fast track the whole State. You do not fast track a school – you cannot, it is

DOE... you cannot. All of the warm, fuzzy, touchy feely projects that have been proposed that need to be... could go through the normal process. My concerns are kind of circulating the back ground and I heard Governor Abercrombie say, "No hotel for Kokee" but what happens if somebody wants to put a tramway to Waialeale and that is just absorb, that is so culturally and socially repugnant but it happens at other places. 20 or 30 years ago, we did not have zip lines, we would never thought about zip lines. What happens if someone wants a tramway to Waialeale and they got the money and they are going to do it and they are going to make a bazillion bucks for the State, do we as the County have the right to say no? What if somebody wants to put something big in the forest and at the end of the road is Uncles farm and it is a 3 or 4 generation kuleana farm with a couple of horses, cows, chickens, and a bunch of kids on a dirt road... and there is going to be a big hunt club and polo ponies and people in the little hats and tight pants riding horses in the woods and chasing fake foxes. Uncle needs to put in infrastructure and water, lighting and sidewalks and we as the County do not have the right to comment? That has big impact. Chairperson Illa says, "343 and HRS 6E will not be obviated." I do not understand that. I feel that every single crown, kingdom and seated property is a historic property and the significance of each and every single one must be determined before they are available for lease. This law as written has many flaws. I totally support the repeal but I also want to be very cautious and prepared with a contingency plan "B" so the Governor veto. Most of all, I support island representation of every populated island on this board...if we got to send somebody there to every meeting, we should be there. Repeal and contingency plan "B" if the repeal should get vetoed, including island representation.

Chair Furfaro: Any questions for Hope?

Ms. Nakamura: Are there any other contingency items, beside island representation that you think are important?

Ms. Kallai: Well, I think considering the socio-economic and social impact should be paramount.

Ms. Nakamura: Would including County zoning laws...

Ms. Kallai: For sure.

Ms. Nakamura: ...also be something that you would support in a contingency plan?

Ms. Kallai: All County zoning and environmental restrictions and State. I do not see any way legally you can get around the endangered species act.

Ms. Nakamura: Under the current law, the PLDC is supposed to come up with a Public Land Optimization Plan.

Ms. Kallai: PLOP.

Ms. Nakamura: Right, but there are no provisions for public hearings on each island, and there is no provision for County Council approval of priorities in that plan. Would you support that additional language?

Ms. Kallai: It seems to me that if there is a project on an island there needs to be many public hearings on that island. We do not have a teleconferencing ability with the State right now. For us to go to a meeting, we got to get on a plane and fly.

Ms. Nakamura: Right.

Ms. Kallai: That is cost prohibitive to a lot of people. I just got finished talking to Chair Person Alia about getting our videoconferencing ability up and running. How can they do these things? We do not have an archeologist for this island. Who is going to be the historic reviewer of these seated and crown land impacts? It is just so premature.

Ms. Yukimura: Thank you.

Ms. Kallai: Thank you.

Chair Furfaro: Members, we have a question for the previous speaker. Members, please indicate to me quicker if you have a question before I go for the next speaker. I would appreciate that. Hope, we have a question for you.

Ms. Yukimura: Hi, Hope. Thank you for your very graphic of what could happen, and some of them could happen on conservation land, which is not covered by County zoning. So, they really show the negative possibilities of this present law. My question to you – and I just want to say at reading your testimony on the rules, you should have been a lawyer, based on how you did that – but the EIS law itself, is only a disclosure law, right? So do you have any suggestions along the lines of contingency plans how you would happen a situation where the impacts are disclosed, but should there also be requirements as to effectively address those impacts?

Ms. Kallai: Well, from the get-go, for the impacts to be determined by the project developer is a little bit skewed. There is no way to readdress, monitor, or enforce any of these things in 343. It has basically gutless mitigation. And I honor it for being in place, but we need to give it a little bit of strength to do something. I cannot quite figure out if a project is implemented, if it is on State land, State police respond. Who would respond on a PLDC lease? I cannot figure out the tax structure. I cannot – I mean, so much of this is just way premature. There is no monitoring or enforcement to 343 for the impacts. So the projected impacts are just assumed.

Ms. Yukimura: Well, the PLDC jurisdiction will not be like an island to itself. I mean, it would still be, I think, police response would be appropriate, either joint response of the State and County police or otherwise, but I understand what you are saying about the complexities. I was just talking about requirements. For example, the California Coastal Act says, if there are significant – and I think Laura Thieland suggested – that if there are significant impacts that the project be denied.

Ms. Kallai: Well, we got a really good example on the North Shore with parking and DLNR just taking some actions to enforce a private parking area on conservation land. I do not know if...

Chair Furfaro: Councilmembers, you need to pose it as a form of a question, not to extend time. So could you pose a question?

Ms. Yukimura: Well, my question was whether, in terms of contingencies, we should suggest provisions where if there are negative impacts, the project should not be approved?

Ms. Kallai: There need – yes. And review monitoring enforcement somehow.

Ms. Yukimura: Okay. Thank you.

Chair Furfaro: Hope, do not run away yet. And Hope, I just want you to know that your September 13th comments, I have shared with our legal department of our Council, and we do plan to respond to you.

Ms. Kallai: Oh, Jay, which were those? I do not even remember.

Chair Furfaro: You know them, all of them. Councilmember Nakamura will show you the cover page. My copy is with our attorneys right now. So I just want to let you know our department is going to breeze through them, and we will plan to...

Ms. Kallai: Sorry for all the overwhelming pages.

Chair Furfaro: No, it is been a busy week.

Mr. Kualii: Thank you for being here and mahalo for the work that you do. About the island representation, though, do you feel a five-member board, even if Kaua'i had one member on that board, would that be adequate? I mean, Kaua'i would have different communities: Hawaiian, environmental, and people may have skills and expertise and knowledge in one area, but they would not necessarily be – so how would we actually really be best represented?

Ms. Kallai: The original board was 11, I believe, 8 to be appointed by the governor of different representation, like Econ Development, and Finance, and Tourism and this and that. And each of the populated islands would have a representative, hopefully appointed by the Council and approved by the Mayor, and it just does not seem right for a three-person quorum and a two-person majority to make State wide decisions.

Mr. Kualii: Absolutely. Would you support language in the bill to require consultation with certain groups, such as the Hawaiian Civic Clubs and Homestead Association with Hawaiian Homes, maybe even some of the environmental groups?

Ms. Kallai: Yes. They should go to the island and ask who those cultural groups are. Like in the Super Ferry, their culture consultants, most of them were dead, and so when they did not get respond, they just assumed a "no" response.

Chair Furfaro: Just to remind you, you answered his question. Sorry. Those are the rules, okay. Thank you very much, Hope. And we will be responding to your questions very soon.

SANDRA HERNDON: Good morning. My name is Sandra Herndon, for the record. And I am very grateful to speak in favor in Councilman Kualii's resolution. I do support the repeal of Act 55. The word that came to mind when I first saw it was "scurrilous." And I think that was because I had recently seen a YouTube clip. And I know this Council is very busy doing a lot of things and probably does not have a whole lot of time to sit around and watch YouTube. However, this one really kind of put me back on my heels. It was a presentation that Abercrombie had made – Governor Abercrombie, excuse me – had made to the House of Representatives Financial Committee. And what he was basically saying was that there is a whole lot of land out there that we can take and make money on. And I was appalled. I am still appalled. I think that in the first place, those lands were not seated; they were seized. I know that that's a political comment, but it is, in fact, fact. I think that we need to be strong; "we" the County, because this is our home. And I really support all the testimony that has come before. I think it is all good ideas; however, I would have to say that they should totally scrap Act 55 and come up with some ideas for specific projects as they are needed. And sometimes I just get speechless and want to cry when I think about this. Thank you.

Chair Furfaro: Thank you for being here today. Any questions?
No questions.

KEN TAYLOR: Chair, members of the Council, my name is Ken Taylor. I first want to thank KipuKai for being this resolution forward, and Chair for being it to the top of the agenda. I am very much in favor of the resolution. I am very disappointed in our four State delegations - three of which have sat here on the Council in the past for supporting this activity at the state level. I mean, there are a lot of reasons for eliminating Act 55. But the real crutch of the matter is this throws a monkey wrench into our community planning. There is no way that after we spend hundreds of thousands of dollars putting a community plan into place, a county general plan, that this just totally destroys any good long-range planning that we have done at a County level. We cannot include state lands in our County planning process, so we have to stay within the realm of what's available to us planning. So this just completely destroys this long-range planning. And I think that all of the other issues that have been raised earlier, plus all of the testimony that you have received point out the different aspects of why this resolution should be adopted and sent forth with strong recommendation to the state and our state delegation from Kaua'i that this has to be repealed. So I am looking forward to – and hoping and praying – that you today will pass this resolution and send it onto the state. Thank you.

Chair Furfaro: Thank you, Ken. Any questions for Ken? Thank you again for your testimony.

FELICIA COWDEN: Aloha, I am Felicia Cowden. And I, again, repeat everybody's deep gratitude that the County has rushed this forward, this resolution that I think is so important to repeal, the Public Land Development Corporation. I do have some contingency suggestions. But I do want to say a complete repeal is what we should put forward first. The integrity of this Act is very, very suspect. And maybe there was something good at the very onset, but to see the complete lack of oversight, to me, is disrespect for all our various islands. It is something akin got

a blank check for 2 million acres. And I think there is something very poetic about having five people there; we get a new big five. And I – you know, I read this last night, Hawai'i Business Magazine on reviving Kua'oka, which is in the PLDC. When you look at the depth of this plan, certainly this plan preceded getting Act 55 together. And it is really interesting to see them have the tallest building in Hawai'i on this. We are looking at OHA, Office of Hawaiian Affairs, land partnered with Kamehameha Schools' lands, where these are market-rate, high-rise buildings, big box stores. And somehow this chipper article is able to pretend that is supporting the Hawaiian culture and that it is sensitive. And I think that is a big indicator of the lack of sincerity behind this. And also the article – at least I tried really hard to see honesty where it said "Public Land Development Corporation." You know, there is a slight of hand that is going on. And so it is always shameful to see a lot of anger at these meetings. I felt like at the Governor's meeting, he deserved it. He insulted our intelligence. And to pretend like we did not have a hotel proposed up at Koke'e, and I want to thank Councilmember JoAnn for calling that to his attention, and I apologize for you being waived off and walked off. When he waived in your face, he waived in all of our face. And I think that – you know, I am a business person in the past, kind of a little bit recovering from that, and what I see from these bribes when they say, "Tell us what you want to see," and for me it would probably be a naturopathic drug rehab or something like three high profitable programs to compensate for one clear losing program. When you see something like (inaudible), where it wants to triple the density of an urban area – okay. I will summarize.

Chair Furfaro: Felicia, that is three minutes, but I will let you summarize.

Ms. Cowden: Okay. When we see them trying to tripe the density, they are going to be creating a vacuum somewhere else. So at a business level, they hurt other neighboring businesses that are essentially subsidized by the state. So I hope somebody has a question about my contingency.

Ms. Nakamura: Felicia, tell me about the contingency plans.

Ms. Cowden: Okay. I would like to call attention to what Ron Kouchi put in his recommendation for an amendment. I have to say, I respected what he had to say there. So even though I do not want to see an amendment, when he said to stay completely away from the pristine land, from our wild lands, high-five to him on that one. I support that heavily. And I think, that if there is an amendment, that it would be specific to already developed areas that are in decay. Because if we do that, somehow we do need to fix up these areas, specific areas in decay with still yet public input. I think the PLDC should be gone, but representation is important, but that representation happens after we have taken off the majority of our pristine lands off the table.

Chair Furfaro: Yes.

Ms. Nakamura: So, for example, the Wailua Marina area has been cited as a potential area where really there is potential, we know. There is a lot of decay. There has not been reinvestment in the facility and site planning and how to best use that beautiful resource. Would that be -- In your opinion, would something in that area be...

Ms. Cowden: That would be a good example. I think any old infrastructure piece that has public use like marinas, airports, bridges, a decayed base - things like that that are actually creating blight but then still being allowed public discussion.

Ms. Nakamura: Okay. Thank you.

Chair Furfaro: I am delighted on how everybody is picking up how we do our rules. Okay. Thank you. Plant the seed for the question; Councilmembers reframe the question.

Mr. Chang: Felicia, thank you for being here. You mentioned Senator Kouchi. Did you have a chance to speak to Senator Kouchi or any of our Representatives?

Ms. Cowden: I spoke to all of them, yes.

Mr. Chang: Okay. Great. Because if you notice when the State had this law in on May 20th of 2011, a lot of what was happening around in the world, as we all know, the tsunami hit Japan on March 11th of that year.

Ms. Cowden: Yes.

Mr. Chang: So I believe the Senate and the Leg reacted very quickly because we were still in, you know, very difficult economic times. And that - the magnitude of that tsunami at that particular time told everyone that the Japanese market in the world could change in a tailspin at any given moment. So I believe that - and you know, as speaking with our reps and the Senator that they made a decision. And I know all of them love and care about Kaua'i. And as you mentioned with Senator Kouchi, for example, he's doing different things to appease. And now there is better understanding for all of us, so I am glad you brought his name up and talked to the Reps because...

Ms. Cowden: I spoke to all of them. I would like to say I have a program on KKCR community affairs show, and so I speak to these people quite a bit. And I have been overwhelmed at statewide, countrywide, and even worldwide kanakas or Hawaiian natives calling me and speaking with me on this issue.

Mr. Chang: I guess basically I am glad, my question was if you have had a chance to chat with them. So it was a different world back then. And I think we understand and know a lot more now. Okay. Thank you.

Ms. Cowden: Yes. I had a chance to chat with them, and they had even stronger things to say than what you just brought forward.

Mr. Bynum: Thanks for being here today, Felicia. While I have problems with this law because it is just so broad and not defined. And I have spoken with our Legislatures too. And often when I speak with them, it is about home rule issues. However, you recognize that there can be this kind of public/private partnership if it was targeted and more transparent for specific parcels, that it could be a beneficial thing for the state. Is that what I am hearing from your testimony?

Ms. Cowden: No.

Mr. Bynum: Okay.

Ms. Cowden: Can you frame the question so I can be clear?

Mr. Bynum: Sure. Councilmember Nakamura just said, as an example, what if this was about the Wailua Marina, the corporation, and what if – I am saying “what if.” What if there was a law that said, “We are going to empower the corporation with sunshine and transparency to look at this project.”

Ms. Cowden: Okay.

Mr. Bynum: And it was with more specificity.

Ms. Cowden: Yes.

Mr. Bynum: Would that be something that you could that potentially...

Ms. Cowden: Yes. At a very narrow level, yes, project by project with, you know, something that has a very public benefit, yes.

Mr. Bynum: Because we have other circumstances where there is exemptions from normal process, the exception being Hawaiian Homelands, which is exempt from County zoning and rules. But the other ones - because that is a unique circumstance based on the history of Hawai'i - the other ones are very targeted, narrow: housing corporation for this purpose. And that is been my big concern. And also in the rhetoric and people get passionate, and passion is great because we love Kaua'i, and tend to question the intentions. The execution, I think, has been abysmal. The intentions like when Bill Ila, for instance, was elected for DLNR, many of us were thrilled because of his history of being a strong advocate for protection of native Hawaiian issues and land issues. And so my question is just that is this the kind of thing that – I could pose that to everyone – that could be supported if it was properly outline in the law and very narrow in scope so we all understood what it was.

Ms. Cowden: Yes. I would frame my answer differently than I am being led to ask, but I think there is very serious procedure issues and that is in also trying to address Councilman Chang's question is that this really didn't go for discussion in the Senate and in the House. And these people just made a mistake because they weren't informed. It did not even come up, not really. So there was a real challenge for that. I don't want to be overstating for these people. I am sure Ron Kouchi is very sharp on all this, but there was lack of information. And then my understanding, also, is that they tried to bring it up to the House and the Senate, and it was not allowed to get through committee. So they are like in check, kind of, on this. And then on – I will let somebody else ask me a question or whatever because I kind of forgot where I was.

Mr. Bynum: I appreciate that answer. And I concur that the process with the Senate, without being subject to the Sunshine Law, is different than what we do here at the Council. You cannot just kind of slip things through the County Council, because we comply with the Sunshine Law and we give plenty of opportunity and time to kind of digest what is this proposal. And I agree with you that the way this came down – the only reason I am saying that is I understand

the motives behind it. The execution, I think, was abysmal, but the motives – you know, there are some pure motives here. I don't question the motives of our legislatures or the Governor. I do not think they are out to exploit things.

Chair Furfaro: Mr. Bynum, you have to frame this as a question.

Mr. Bynum: Well, it is so broad.

Ms. Cowden: Well, the word "exploit" was in their words exactly, so I think it is exploitative; otherwise, why would they use such a challenging, emotionally charged word for conservation land.

Mr. Bynum: I appreciate your input. Thank you.

Chair Furfaro: Any other questions for Felicia? Felicia, thank you very much for your testimony.

RAYMOND CATANIA: Good morning, everybody. I am here to support KipuKai's resolution on repealing Act 55. My last name is Catania and first is Raymond. I am just recently retired working man with the State of Hawai'i, 22 years. My basic concern is two. One, to me, it is like a possibility for a corporate free-for-all. There are real controls or regulations on this thing, in that people who get money can have their way. The other thing is that I think this whole thing about the land -- I think over 90% of this land is being contested. I believe its land that has been seized from the kanaka, from the native Hawaiians. And to me, they have first say with what happens with this land. And the other thing is that any kind of development has got to be case by case. And so that's why I support this. I also support JoAnn Yukimura, and she was trying to correct the Governor that there was a hotel that was proposed on Kōke'e. And Councilmember Mel Rapozo, I really enjoyed his presentation he gave yesterday on KKCR radio. He said that first he was for amendments but because this thing has so many problems, especially dealing with home rule that we should repeal it and start again. That's all I have to say. Thank you.

Chair Furfaro: Rick, thank you very much. Any questions for Rick?

GARY HOOSER: Good morning, Council members. My name is Gary Hooser. I want to also echo the mahalos for Councilmember KipuKai Kualii for introducing and the Chair for making sure it got on the agenda and all of you because I know it all happens as a group, as a team. I know this is an important issue and I will try to be brief. Again, I am Gary Hooser, and I am testifying today in support of the passage of Resolution 2012-52 and the complete repeal of Act 55 establishing the Public Land Development Corporation. I am presently on leave from my job as the Director the Office of Environmental Quality Control, the OEQC, from the State of Hawai'i. As the Director of that office, my primary responsibility is the administration of Chapter 343 Hawai'i Revised Statutes, which establishes and defines environmental impact statements, requirements for the State of Hawai'i. I am very familiar with the workings of Chapter 343, and, as the director, have provided numerous consultations and workshops on the proper implementation of this important law. To be clear today, I am offering this testimony on my own behalf and not in my official capacity as the Director of that Office. Though I have many concerns about Act 55, I am going to focus on just two areas. According to Act 55 projects developed by the Public Land Development

Corporation are exempt from all statutes, ordinances, Charter provision and rules of any government agency, relating to a whole long list of items. Okay. Those are big words. One thing I learned in lawmaking – and you know too, whether it is may or shall - all statutes, ordinances, Charter provisions and rules, okay, that is a big, big line. And I, for one, am really, really troubled by the broadness of that statement. The legislative exemption, by law exempting projects, development projects, from established permitting requirements is a fundamentally flawed principle from a public-policy perspective. The statutes, ordinances, Charter provisions and rules of governing agencies are there to protect the public. They are there to protect the public interests. And Act 55 gets rid of all these rules and basically says, “trust me.” It is my understanding, from what I can tell, all of the projects mentioned, whether it is the Alawai or Wailua Marina, or anything, all of those projects can be accomplished without these exemptions and without the elimination of the protections now missing in Act 55. We do not need Act 55 to do these projects. Sure Act 55 might expedite it. It might save six months; it might save a year; it might save longer, but these projects are not held in check or not prohibited by existing law. These yet-to-be-determined development projects would occur on public land. They should absolutely be required to get the necessary permits and to undergo scrutiny by the public and the public agencies responsible for fundamental health, safety, and environmental protections of our community. Should I summarize?

Chair Furfaro:

You can summarize.

Mr. Hooser: Okay. In conclusion, I strongly urge the Kaua‘i County Council to support the full repeal of Act 55. If amendments are attempted at the legislature rather than a full repeal, my experience at the end of the day, there will be only minor changes, perhaps lots of language attempting to assure the public about the intent, but the fundamental laws will remain in place. To be clear, the intent of the law may be to serve a public purpose. But the law, as written, provides wide latitude for abuse and represents, what I believe, to be bad public policy with real potential for long-term harm to both our natural environment and community as a whole. Thank you. I am able for questions.

Ms. Yukimura: So your conclusion and thank you for being here. Your conclusion is that Act 55 exempts the PLDC from Chapter 343, right?

Mr. Hooser: No. And that was part of my testimony, actually, that I ran out of time on. If I could, would you like to hear about Chapter 343? Chapter 343, as was earlier stated, was primarily disclosure documents and without permitting agencies. I will give a quick example. The disclosure of a project may disclose runoff. Runoff is going to go into the streams and hurt fish and wildlife. Chapter 343 EA, the Environmental Assessment Impact Statement will disclose that. But it takes a permitting agency to say you have to design it a certain way to prevent that runoff and put in enforcement provisions to enforce that that actually is done. And it's my opinion that by Act 55, by eliminating all statutes, rules, and ordinances, eliminates that very vital link. So Chapter 343 has no teeth and I call it a paper tiger. You can require people to do the review, but there is no mitigation.

Ms. Yukimura:

I know, but is not Chapter 343 a statute?

Mr. Hooser:

Yes, but it is specifically excluded.

Ms. Yukimura:

Exempted. Oh, okay. So...

Mr. Hooser: Yes, and that is what troubles me is that it is held up as, "We are protecting the environment because we don't exclude Chapter 343," but by excluding everything else, it takes the teeth out of Chapter 343. If you want to hear about contingency suggestions, I would be happy to make that suggestion.

Chair Furfaro: I gave you a little extra time to expand on 343 and how it is exempted, but let us stay to questions from Councilmembers. Vice Chair, you still have the floor.

Ms. Yukimura: I would like to know what main contingencies you suggest.

Mr. Hooser: I do not suggest any contingencies. I believe that all these projects – again, whether it's the Wailua Marina, whether it's the Ala Wai, they should all abide by the health, safety, and environmental concerns. I believe language has been suggested, which applies to contingencies that will be – we will agree to consult. We will agree to cooperate. Those are not shall. And those contingencies, I think, are a straw man type argument, and so a full repeal is what is needed.

Ms. Yukimura: So like consult, for example, just means you have to talk to them but you don't have to follow what they say.

Mr. Hooser: Exactly.

Ms. Yukimura: And 343, which has to be followed only discloses the laws, but – I mean, the negative impacts, but has no teeth in terms of addressing the negative impacts.

Mr. Hooser: That's correct. And it's intended to disclose cumulative and secondary impacts also, which are very, very important. And, again, there's not teeth to deal with those impacts.

Ms. Yukimura: Okay. Thank you.

Mr. Kualifi: I appreciate your testimony, the part about, "Oh, just trust me," because I think that was one of the first things that sort of popped up to everyone in the community was like, you know, putting these laws in place is allowing us to do whatever we want, but we are going to tell you right now, that we are going to do it the right way; we are going to coordinate with the county on the permits; we are going to work with the community and we are going to be culturally sensitive but they took out all the requirements to do that. So why would, as a former Senator and all, why would legislative body create laws that would basically permit them to do other than what they say they will intend to do and want to do?

Mr. Hooser: Would you like me to tell you about the legislative history just a little bit, if I could? There is over a thousand bills produced in the House; a thousand bills introduced in the Senate. This particular measure was introduced in 2010 and passed in 2010. Yes. And that was immediately after the election. The Governor was new; the Director Ila was new. A lot of the legislatures were new; I was new – new appointee. I came in. It had already gone to its first hearing. So you have that factor; you have a thousand bills coming through. When it was scheduled, it had one hearing in the Senate, one public hearing in the Senate

about two weeks after it was introduced. Then when it went to the House, it was delayed. It had a proper hearing. The schedule for the second hearing that had two hours' public notice, okay. Two hours' public notice. Unless you are in the building or on the floor, you do not know what is happening. Okay. And then it passed and went through. There is a lot going on. Various legislatures – unless you sit on the committee, you trust other committee members or the public. And, quite frankly, the public missed the boat on this, the “usual suspects” to quote our Governor. The Sierra Club, KAHEA, Life of the Land, organizations charged with – their missing is protecting the environment and those kinds of issues, failed to show up. They didn't testify. And so it kind of slipped through very fast. My kuleana with regards to Chapter 343, because it did not exempt Chapter 343, I was encouraged to only focus my testimony at the time to on issues that directly impacted Chapter 343, so I didn't engage.

Mr. Kualii: My question is, and maybe you have knowledge based on the work that you have done in the past in the Senate, or maybe even your capacity in the Office of Environmental Quality Control, but it has to do with the selling of public lands. And in the frequently asked questions that they provided – so I think the answers are somewhat in their favor. They say, “Can the PLDC sell public lands?” And it says, “The initial premise is that title will remain with the respective agency and only the developmental rights will transfer over to the PLDC; therefore, the PLDC cannot sell the fee title to any of the lands.” But then it goes further to say, “If the respective title agency transfers the fee title to the PLDC, then the PLDC may sell title, subject to the same restrictions as other agencies.” Does that mean, then, that they can sell public land?

Mr. Hooser: I believe you cannot sell lands without two-thirds consent from both the House and the Senate. But, again, it's all in the words, you know. You can sell lands; you can lease lands; you can give easements on lands; you can give rights – contracts to use lands. I believe there are lots of ways around these issues. And I believe there is also remnant parcels. You want to protect Kōke'e and other places, but there are lots of public lands spread around.

Mr. Kualii: You know I think, and let me know if you agree, but the State already has an example because the Department of Hawaiian Homelands is a trust with lands with the primary responsibility to provide homes for Hawaiians. And a former chair of Hawaiian Homelands was trying to develop revenues because they are struggling with operational monies. And part of way was with commercial leases. And the exiting language for commercial leases was 65 years, but they were trying to increase that to 99 years. So the trust beneficiaries caught wind of it, stood up against it and actually stopped a potential hotel development in Wailua before – you know, sort of dead in its tracks. They were trying to used the Hawaiian community, saying “We are going to give you jobs, we are going to help build your homes if you let us build this.” So it was a State, you know, the same kind of thing.

Mr. Hooser: And there is a way to do it. You just follow the rules.

Chair Furfaro: Thank you. Councilmember, you should have posed that as a question.

Mr. Kualii: I said, “do you agree that there is...”

Chair Furfaro: Are there any more questions? Councilmember Nakamura.

Ms. Nakamura: Thank you very much for your testimony, Gary. Your recommendation is that we just go for the full repeal of the bill. And I was at the Hawai'i Congress of Planning Officials luncheon when the Governor spoke last week – a few weeks ago in Honolulu. And I believe he said he would veto any effort to repeal this law. And so as Hope had said and some other speakers that a contingency would leave us in a better – if we were to at least have a backup contingency, because this bill was passed by the Senate, so would they override the Governor's veto is a question. And so I think if we don't have a contingency, then we are left with the present bill, which, I think, is not acceptable. So that is what I feel that some kind of backup plan is a good thing, not knowing what is going to happen in this at the legislature. So do you have any further thought on that?

Mr. Hooser: This is a political question, a strategy type of question. I do have some thoughts. The – I believe that this County, that you folks and our community should send the strongest possible message that we can, that this is unacceptable and they need to start over. So number one, I think that, okay. The political legislative reality – and just to – I mean, it was the House and Senate that passed it. And there were very few no votes. The community outrage and the community pressure now, if – and we will just speculate for a second. If the House and Senate had enough votes to pass a repeal and the Governor vetoed it, that would be a very, very contentious, very provocative, very in-your-face move by the Governor if the majority of the House and Senate both pass it, given its history. So I, for one, do not believe the Governor would veto it. I believe that would be a big mistake on his part, and I believe he would realize that because of the – the public is stepping out and saying, "This is what we want." The legislature changes its mind, theoretically and votes to repeal, that would be a super powerful statement.

Chair Furfaro: I am going to leave it at that. This is a speculative question and a speculative answer. And our extra time is to specifics. And I know you know our rules very well.

Mr. Hooser: I do.

Chair Furfaro: Thank you, Councilwoman. Any more questions for Senator Hooser? Go right ahead. You have the floor, Mr. Rapozo.

Mr. Rapozo: Are you still employed after this morning?

Mr. Hooser: If you are asking me about the...

Mr. Rapozo: That may be speculative. I will let it go.

Mr. Hooser: I would like to answer you, if I could.

Mr. Rapozo: Well, that was the question.

Mr. Hooser: The area of law on which I am appointed, see I cannot be removed from office, except for cause, a public hearing, or notice. And I am still employed. I am on paid leave, to clarify it all, so I am not getting paid.

Mr. Rapozo: Thank you.

Mr. Bynum: I appreciate and agree with virtually all your comments today. I am just worried about what if. So should we just go this route, and I think that is what I heard, and not be looking at Plan B. And for me, it's just pragmatic. I am more than willing to support the direction we are headed here wholeheartedly. But in my experience, pragmatically sometimes you need to concurrently work on a Plan B to be ready. So I just want to ask that: should we just hold our effort and go down this route, which I think we are all going to be committed to, or should we be pragmatically trying to anticipate...

Mr. Hooser: May I address that, Chair?

Chair Furfaro: Yes, since he framed it as a question at the end.

Mr. Hooser: I would suggest being strong, going for repeal. But when you state your concerns, be very specific. And, therefore, if the legislature in its wisdom decided to amend rather than repeal, they could at least see your concerns. I believe the only contingency, if you would, that I would find personally acceptable would be that of a specific project and a specific set of circumstances and specific laws, not all rules, laws, et cetera. And, for the record, the Governor has the power if it's an emergency to do that today without Act 55. If there is a situation where we have to get it done right away and we don't have time for all these permits, the Governor can do that today.

Mr. Bynum: But that is for public health and safety, right, like in an emergency?

Mr. Hooser: Yes, yes.

Mr. Bynum: What I have put forth, from the beginning, is make this project specific if you want to do this extraordinary thing. I think we are on the same page. Thank you.

Mr. Rapozo: And this is just a "yes" or "no" answer.

Chair Furfaro: You haven't had too many of those.

Mr. Rapozo: This will be just "yes" or "no." Wouldn't you agree...

Mr. Hooser: I don't know how to answer "yes" or "no" questions.

Mr. Rapozo: I know. Wouldn't you agree -- I know you just mentioned the power statement, the counties, the councils, but we should submit a list of concerns -- wouldn't you agree, though, that the legislature and the Governor, at this moment are very aware of the specific concerns of the public?

Mr. Hooser: Yes, and the legislature as well.

Mr. Rapozo: That is what I meant: the state legislature and the Governor through the series of meetings. And I did manage to get a few YouTube segments in, and it's quite powerful those hearings, the community's concerns, the native Hawaiian -- what was that corporation, legal corporation? Powerful. But my question is, legislatures and Governor at this point, I believe that they are -- and the

question is – I think you already answered – very aware of the specific concerns at this moment.

Mr. Hooser: At this moment. The legislative session starts January, and I am hopeful they will still be aware of them in January.

Mr. Rapozo: Okay. Thank you.

Chair Furfaro: Gary, thank you very much for your response to our questions, especially with the history that you carry. Thank you very much. Is there any other registered speaker? Thank you.

WENDY RAEBECK: I am the last speaker. I just wanted to – with these legal things – this is kind of for the general public, but it is also my – I feel like I want to use my time for this. When you use these legal bills and acts and things and you try to get through it, sometimes it's kind of hard to understand. And also, it is hard to get your hands on. So for anyone watching this, I kind of want to reiterate what's in this act. So I just kind of abbreviated it, but it's not – it really comes – all the words are straight out of it, but I just took away some of the clunkiness out of it.

Chair Furfaro: If that is how you choose to use your time, go right ahead.

Ms. Raebeck: Okay. Thank you. First of all, I just want to say 2 million acres of Hawaiian land is – this isn't Texas, that's like a huge percentage of this state. So this is what it says – it says, "The powers of the Public Land Development Corporation may make and alter bylaws for its organization and management; may adopt rules as necessary to effectuate its projects, operations, and properties; may make and execute contracts for the exercise of its powers and functions; may acquire by grant or purchase all privately owned real property or interest therein that are determined by the corporation to be necessary or appropriate for its purposes; may acquire or contract encumbrances in the form of leases, licenses or otherwise; may own, hold, improve, and rehabilitate any property acquired and sell, transfer, or otherwise dispose of or encumber the same; may acquire, construct, rehabilitate, alter any structure in connection with any project that meets the purposes of the corporation; may acquire, construct, operate and maintain leisure, recreational, commercial, residential hotel, office space, and business facilities at rates or charges determined by the corporation; may assist visitor- industry related enterprises, developed or managed by the corporation by developing strategies to better exploit local, national, and international markets; may receive applications for development of the expansion of established visitor industry or land development enterprises, and the altering of existing visitor industry or land development enterprises; may coordinate with any federal or state programs; may purchase any project or renew any lease in connection with any of its projects on the terms and conditions it deems advisable.

Chair Furfaro: You need to summarize. Your time is...

Ms. Raebeck: I just got three more little things. Can I? Okay. May accept gifts or grants in any form from any public agency or any other source. May procure insurance against any loss in connection with this property; may purchase any project or renew any lease in connection with any of its projects on the terms and conditions that it deems advisable; may recommend to the Board of

Natural Land and Resources any privately owned properties that may be appropriate for development; may do all things necessary to carry out the purposes of this corporation.

Chair Furfaro: Thank you.

Mr. Raebeck: So in my opinion, Act 55 must be repealed; no amendments, no contingencies, no powers for the PLDC; it's a monster and it needs to be abolished.

Chair Furfaro: Okay. Thank you. Any questions for the speaker.
Thank you very much.

Ms. Raebeck: Thank you.

Chair Furfaro: Are we finished with the speakers who have signed up? Is there anyone in the audience that has arrived that did not sign up with my staff earlier that would like to speak? Okay. If not, I am going to call this meeting back to order. And on that note, I would like to get commentary from the various councilmembers before I call for the question. But I need a motion to approve...

Mr. Bynum moved to approve Resolution No. 2012-52, seconded by Mr. Kuali'i.

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Yes, you have the floor.

Mr. Rapozo moved to amend Resolution No. 2012-52 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Mr. Bynum.

Mr. Rapozo: Yes, I want to propose an amendment before we get into the discussion, and it's a technical amendment. All I want to do is add in – be it finally resolved – the Hawai'i State Association of Counties as the recipients of the copy of the Resolution.

Chair Furfaro: As circulated?

Mr. Rapozo: Yes, and that's all it is, for the public. It's just an addition to forward the resolution, hopefully upon passage, to the Hawai'i State Association for its next meeting October 11.

Chair Furfaro: Members, please note this is the first amendment. Should there be others, let's identify this as Amendment No. 1.

Mr. Yukimura: Just a question of Councilmember Rapozo. I am assuming that this will go to HSAC as a proposal to be part of an HSAC package?

Mr. Rapozo: Unfortunately, because of the posting, we did not post it as such, so by having this added in the HSAC Board can consider and propose amendments...

Ms. Yukimura: On their own?

Mr. Rapozo: ...on its own. So that is what the plan will be. I will be recommending on October 11th that we add this in. And I assuming this will pass, which it typically does at HSAC meeting, and then it will return back here...

Ms. Yukimura: For confirmation.

Mr. Rapozo: ...with the entire package of other bills, so we can vote on.

Ms. Yukimura: Okay. Thank you.

Chair Furfaro: Does that answer your question?

Ms. Yukimura: Yes. What that means for the audience is that the Hawai'i State Association of Counties, which includes the Council of all four counties, sometimes makes – takes on legislative proposals to propose a law before as a united group. And it carries a lot more weight than just single counties doing this. It requires unanimous approval, so that means that there would be – assuming that this legislation passes today, it would be two out of four counties already taking a stand on it. Thank you. I support the amendment.

Chair Furfaro: Okay. Before I go any further, will members be introducing any other amendments before I go around the table for discussion. Mr. Clerk, should we vote on this amendment first? There is a motion and a second on this amendment to include it in the HSAC package. I would like to have a roll call vote, if I may.

The motion to amend Resolution No. 2012-52 was then put and carried by the following vote:

FOR AMENDMENT:	Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST AMENDMENT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Thank you very much. Members, we are now back to the main motion as amended, and I will open the floor for discussion.

Mr. Rapozo: Thank you, Mr. Chair. And on the agenda, there is a posting for a HSAC resolution to amend Act 55, which we get to that, I will be making a motion to receive that, and hopefully we won't have any discussion on that, and all discussion will be here. As was stated by a speaker earlier, my original intent was to submit a proposal of an amendment that would remove the exemption from the County processes. And I felt that was a compromise; that we would probably have the best shot of passing based on trying to work with the State. And then I went to that meeting at (inaudible). And I think Felicia described how the message was received by pretty much everyone there that it was insulting. It was, in my opinion, I felt that there was really no room for compromise. In fact, another speaker basically said, hey, it was a "trust me." I think it was Senator Hooser. Or someone said it was basically, "you got to trust us." There is a lot of flaws, and I don't have enough time to go over all the flaws, but there is some very concerning issues in the bill – or the act; it's not even a law. I think one of the big ones is exemption of the County, because I think that was well described by many of you

today. We have a height limitation on Kaua'i. You cannot build a building beyond a certain height. This law basically wipes that out, so they could build a resort in Kōke'e. And, in fact, that was proposed in – a few years ago in the recreational renaissance package proposed by Governor Lingle at the time, so it's not farfetched. It was actually attempted, and it was the people that stopped that. There is other concerns – if you look on page 36, regarding the corporation's ability to own stock in the enterprises that are formed. This limits the percentage to 49%. It's incredible. In any other governmental agency, you would have to declare a conflict, and we would not be able to participate. But in this bill, it allows them, even with a 49% interest in a corporation – with a 49% interest in this enterprise, they could participate. And, in fact, if they believed that they needed to – if they were in financial problems, that they could own more than 49%. In other words, they would be taking public to change bad money to try to keep a bad enterprise afloat with the government – I mean, with the people's money. That is just another glaring problem. And Item 18 on page 37, exemption from taxation. The corporation shall not be required to pay state taxes of any kind. Well, excuse me that was a big problem. The bad part is while we are waiting, while we are discussing this, we have an executive director that is getting paid \$130,000 a year. He has a staff – Yes, he gets paid 130,000 that is his compensation package. He also has two staff position, which we could not determine today if they were filled or not. The board members do not get paid, but the executive director does. This bill has been in effect for a while. And all the while he's been appointed, he gets paid \$130,000. So if you want to save money, maybe we should not spend money. That's number one. The governor at the meeting, basically stated, you know, "I didn't write this bill. It came from the legislature. I signed it, but I felt it was the voice of the people because it came from the legislature. I didn't write it. And I respect the Governor, I really do. He's trying to keep this state afloat. But I hear yesterday that he is going to veto any repeal attempt, which was quite disturbing. I think it's important for this Council and all the other Councils to stand united. I think it's important that the Hawai'i State Association comes up with a – I believe this is the first time – and I have been a president of HSAC for quite a while. I believe this is the first time that the counties will hopefully united to repeal a bill. I don't think – I don't know if it has ever been done.

Chair Furfaro: Mr. Rapozo...

Mr. Rapozo: My time?

Chair Furfaro: I had mentioned to everyone that we will be timing members for five minutes. I will give you time to summarize.

Mr. Rapozo: Thank you, sir. I appreciate that. I will end here. You know, they talk about the EIS. And EIS is a disclosure document, as Councilmember Yukimura mentioned. That is all it is. And it is done by the developer, the enterprise. And I think Senator Hooser hit it right on the head: they can disclose to us the issues, but there will be no mechanism – there is not mechanism to enforce that, and that is very disturbing. So I am hoping that we can get a unanimous vote here today. Thank you Mr. Chair for the additional time.

Mr. Bynum: I will just – thanks, Mel, because he outlined some of the glaring overreaches that are in this bill. And I will just pick up on that and say, Kaua'i, we just want to control our own destiny. We have a process here that is working better than when I first came on Council. I think the most responsive body to citizens' concerns on Kaua'i is the County Council. We have good processes and

we get input from all of you, which adds to our work and makes our outcomes better. When I talked to our legislatures, almost every time when I pick up the phone and call them, it's about home rule issues. It's about let Kaua'i control their own destiny. So I understand the intent behind this. I think that example of Wailua Marina, which I have been familiar with for a long time, which the state shuttered the public facilities, you couldn't use the bathroom there. You know, the Smith family and the Wai'ale'ale family tried to improve it so their business climate was stronger. If there business climate is stronger, than the State's revenue from that marina can be stronger. I understand those intentions, so write a bill to work on those specific projects and allow the county of Kaua'i and all of you to provide your wisdom and input so we have a good outcome. The public process is what it is all about. This bill exempts the public process completely. And so I am going to rise in full support of this. But I am also a pragmatist. I have been doing this long enough to know that the state keeps trying to help us, and we say, "don't help us." We have to put amendments into the bill saying this doesn't apply to counties under 500,000 that is one way to get them. They are trying to fix some Oahu problem and it causes grief for us, right. So that relationship is tough. We have a lobbyist that tries to keep us informed, because as Senator Hooser said, two hours of public notice. Unless our guy is there and he clearly understands what our intention is, we don't even know it. And they do things like gut and replace. Here is this bill that is about this and in the waning day of the legislature, it becomes something different. And so I find out things that I am concerned about when they already passed. Now this bill I knew had some problems, and we communicated about home rule. So I really loved what Senator Hooser said that when we convey our individual concerns about the broad reach of this bill, that we are going to give a strong message that it needs to be repealed. But when we convey those concerns, we can help guide them what is acceptable to us, if you do a narrow bill in the future. And that includes letting Kaua'i control its own destiny. Thank you.

Chair Furfaro: Thank you. Who would like to speak next? Okay. I will hold a time for you to speak before I speak last.

Ms. Yukimura: Yes, thank you. I am very proud of the Kaua'i rising up to say no. We have a reputation and we have lived up to it with this particular issue. Act 55 was poorly conceived, poorly written, and poorly presented. It may have had some good intentions, but we all know that the road to hell is paved with good intentions, especially when the checks and balances against bad intentions are omitted. When our Founding Fathers wrote the Constitution, they didn't just think about the good possibilities, but they also thought about the bad possibilities and provided checks and balances. And this law could last for a long time, if it's allowed to and the kind of horror stories that are possible have been outlined by all of you. I think it's appropriate for the opponents of the law to go back to the drawing board and introduce a new bill with an open and transparent process, both in the passage of the new – of the bill and in terms of the operations of this corporation. And there has been immense input from the public as to what needs to be addressed so the legislature has a lot of work to do and they have a lot to work with because of the input. I have submitted testimony, both to the Public Lands Development Corporation about the rules and to the Governor, when he came on Wednesday, outlining some of my specific concerns. But I feel the most important way to limit a corporation, as has been proposed, is to let it do its work on a project-by-project basis. And with enough safeguards, such as – the procedural safeguards, such as conflict of interest requirements, appointment guidelines and Sunshine Law rules. So the bottom line is that Act 55 is a terrible law and should be repealed and I will be voting for this resolution.

Mr. Chang: Yes, thank you very much to Councilmember Kualii and to Councilmember Yukimura, Rapozo, and those of you that attended the meeting, thank you very much. I was not able to attend the meeting. But I do want to say clearly that the people have spoken, and this is yet another victory for the people of Kaua'i. And we all heard the testimonies, and I do believe that our State Senator and our legislatures have also heard the people, and I know they are going to be acting on our best interest. When Kaua'i speaks, oftentimes we are the leaders. The Big Island beat us to the punch. But I think that this particular action that we are going to be – and I know and feel that it is going to be unanimous. But I don't know of any action or movement that's happening on the island of Maui or, of course, City and County of Honolulu, but I can clearly let you know that in a few short minutes the message is going to go loud and clear and this is going to go statewide because of all your assistance and help. And rest assured we have our president of our Hawai'i State Association of Counties, and that is Mel Rapozo, is going to push it forward. So this is going to be big for all of us, because the momentum is just going to move it along. As I mentioned, very shortly, the people around the state is going to know that Kaua'i had a big clear voice and a very big clear message, so thank you all for taking the time. And you folks all know the many people that have submitted proposal, both in e-mail form and phone calls, so let them know that we appreciate them, because obviously they can't be here. But you folks can let the message know – the good news here on Kaua'i, so thank you for taking the time. Mahalo.

Ms. Nakamura: Yes. When I was a planning consultant, one of the projects I worked on was Hā'ena State County Beach Park. And what we did was we had to improve the restroom facility, put in the gravel parking, put in the ADA walkway. Now to do that project, we had to do a conservation use permit because it was conservation land, a shoreline SMA, major shoreline setback variance, because the old shoreline survey was old, and an environmental assessment, which was triggered by the conservation district use application for a restroom, an ADA walkway and a sink. And this is done typically by any government agency on this island. Just to do a library extension, you need to go through these processes. The Kapa'a High School softball field, we have to do an EA, get county permits, and get public input. That's the process that we laid out. And I am concerned that the broad reach of this bill, being exempt from SMA, from CDUA, from our state land agricultural land use land 205, and without having any standards in place to address what impacts and how developers would address those impacts. But I also see the other side of the story here, which is that there are very prime opportunities for development on each of our islands that would help to restore all of the funding that has been taken away from the Department of Land and Natural Resources. And the number I heard was a 65% cut to DL&R's budget since 2002. So I believe that we need to – we can send a message, but I think on the land-use side, on the financing side, I think I would like to see some of the powers permitted to do assessment districts, revenue bonds, and so forth, to make some of these projects successful. So I guess I would like to formulate our concerns, our contingency concerns in case – and just maybe and forward them to our representatives as they devise a solution to this issue.

Chair Furfaro: Vice Chair, let me see if you have – has anyone else that hasn't spoken, other than Councilmember Kualii and myself? Okay. I will recognize you a second time.

Ms. Yukimura: I just wanted to respond to Councilwoman Nakamura's concerns, because I understand them and I think that they are legitimate. And I think at the time, a repeal bill or something is proposed, we have do council testimony with a lot of suggestions. And I want to also say there may be other ways to address it. I think we need a big overhaul on the EIS law, Chapter 343, that we are doing EIS's on small things at tremendous cost, and we are not doing EIS's on key places. Also, Hope's point about developers doing their own EIS, I mean, really should be a third party EIS, and it being only a disclosure law so that there might be ways to give it more teeth. Anyway, so I just want to say, to me, if one of our legislatures want to take on that that should be done also. But I think suggesting ideas and summarizing some of the input that we received and ways to facilitate good development is something that would be worthwhile. And I just want to say one more thing: there is such a difference in how you do development in conservation land. I mean, our national parks have had to address that. You do have to build building; you do have to do walkways; you do different kinds, but on a very different scale and with very different guidelines. Our state DL&R could themselves develop guidelines for their development of that. So there is just a lot of good work that still needs to be done.

Chair Furfaro: Okay. That is your second speaking time. Is there anyone else who wants to speak, as I promised Councilmember Kualii that he would be last before myself. Mr. Bynum.

Mr. Bynum: I just want to highlight what Nadine said about DL&R. It's a huge state agency that is so important. It has water resource and land resource. It's our mālama 'āina agency. And for it to be cut 65%, you know, so I have a real sympathy for those state bureaucrats who are charged with mālama 'āina and don't have the resources to do it. So we do have a serious problem, but this bill is just not the answer.

Chair Furfaro: Anyone else? If not, it will be Councilmember Kualii and myself before I call for the full – Councilmember, you have the floor.

Mr. Kualii: Thank you, Mr. Chair. I do want to say first and foremost, mahalo nui lua to all the people for standing up for my Hawaiian people and for our 'āina. The State of Hawai'i is responsible for our seated lands and the resources that it contains. Native Hawaiians clearly have a continuing interest and claim to the seated lands. And their struggle for reconciliation will be futile if the assets in dispute no longer exist when a solution is found. The Hawai'i Supreme Court agreed with this principle and previously reasoned that any further diminishment of the seated lands will negatively impact reconciliation efforts between native Hawaiians and the State. The PLDC has the potential for broad reaching and long-term impacts to the native Hawaiian community and the resources it relies upon. A potential eligible developer's past violations are not addressed in this law. The public must be sure that no developers who have violated laws related to land use, environmental protection, historic, and cultural properties, resources, civil rights, occupational safety or labor or broken any promise related to a governmental agency in seeking a land-use entitlement should not be eligible to participate. The PLDC fails to require an analysis of how Hawaiian traditional and customary practices will be protected and enhanced. And it does not offer meaningful mechanisms for long-term sustainable management planning, sufficient transparency and accountability to the public trust and beneficiaries or specific criteria that gives meaning to the purpose of what the PLDC calls administering an appropriate and culturally sensitive land development

program. In the law, the PLDC describes culturally sensitive as being sensitive to the culture and history of the lands to be developed. That is totally inadequate, and it's basically saying, culturally sensitive means we are going to be – you know, it's circular, it's inadequate, and it's merely repetitive. At a minimum, culturally sensitive should consider the protection and enhancement of traditional and customary practice of native Hawaiians, self-sufficiency, sustainability, the cultural heritage of native Hawaiians, cultural landscapes and view planes, traditional knowledge and traditional cultural expressions of native Hawaiian, native Hawaiian language, the history and heritage of Hawai'i, the environment, ecology, air, and atmosphere, the scenic beauty, flora fish and wildlife, the fresh and ocean water of Hawai'i and archaeology. You know, the pragmatic side of me does agree with what Councilmember Nakamura said. We have to accept that we're part of the State too. We are not just a County here; we are citizens of the State of Hawai'i, and so we have a kuleana, we have a responsibility. And this funding shortfall for DL&R, and for those agencies that have the critical importance of protecting our environment, that's our responsibility too, so we need to find a way to make sure – you know, this is not the way, clearly. We have to repeal this bill, but we need to find a way to support the DL&R and forestry and other State agencies that they be adequately funded so they can properly protect all of our lands, our waterways, our ocean, and reef ecosystems, and natural resources. Our natural resources is critical to our people. And I appreciate all my councilmembers' testimony and the sound of overwhelming support. And I think we – this is the right thing to do. And first and foremost, I just want to thank all the people that stepped forward and made this happened. Mahalo, Chair.

Chair Furfaro: Thank you very much, Councilmember. I would like to say, first of all, thank you very much for Councilmember KipuKai's introduction of this resolution. I think we can all sense in his passion for all place, our sense of place, the waihepana, the places that are very special. We can understand our concerns with this act because it has serious procedural problems. You know, I have a brother who was a deputy prosecutor with the City in Kahaluu. His pro bono work was participating in the writing of the native Hawaiian handbooks. I have a daughter who is a social worker, and obviously concerned with issues in our community and another daughter who has a master's in urban planning and really specializes in land management and assets. I probably couldn't have a conversation around the table about this Act without having to cover the poi bowl, cover the calabash, don't let bad things get into the poi. You know, that's a cultural practice. This bill basically says that we shall exempt the State. I thought I had five minutes. Okay. Let me summarize then. This bill shall exempt the State from statutes, from ordinances, from charter provisions, from rules of any government agency, and that's not how I take my kama'aina stewardship. You know, in a state, and it's not just Kauai, it's the state, people are kama'aina to certain places. You know, I talked to Grandpa Henry, I know the place names and the areas that are special, or waihipana. Whether it's Hā'ena, Hanalei, Halelea Kilauea. And for my family in Waianai, I know Puea, I know Waianai Valley, I know Kaupuni stream. There are items that are of great sentimental value and cultural significance. And that is why we have the perimeters that we have now, to review procedures that deal with making sure we can be good stewards. So I will be supporting Councilmember Kualii's Act 55 resolution to have it end, simply end. Because of my sense of place and values, I think it is a community that requires attentiveness on matters of development and quite frankly, keeping Hawaii Hawai'i, as JoAnn says often, keeping Kauai Kaua'i. There are serious procedural issues in this carte blanche. I will be supporting your resolution. And I want to

thank you Councilmember KipuKai for its introduction. On that note, Mr. Clerk, I would like to call for a vote on this Resolution.

The motion to approve Resolution No. 2012-52, as amended was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Chang, Kualii, Nakamura, Rapozo Yukimura, Furfaro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

There being no objections, the Council recessed at 11:01 a.m.

The Council reconvened at 11:15 a.m., and proceeded as follows:

Chair Furfaro: Okay. We are back in session. I want to say to you that we have several items that there are requests on, starting with items C2012-382, 383, 384, 385, 386, that require action by the clerk before he leaves on vacation. I also want you to know that I have a request for a deferral from civil defense, which I talked with them yesterday, which I would like to honor that deferral as I have sent them some questions. Also, I have a deferral dealing with Ed Shop at the request of Mr. Dill on those two items. So do we have the Housing people here for this item. And do we have somebody from the County Attorney representing Housing on these legal documents? Is that you, Amy? Okay. Very good. Could we read these items, please?

C 2012-384 Communication (08/24/2012) from the County Engineer, recommending Council approval of the following relating to Mehana Road, 'Ele'ele, Kōloa, Kaua'i:

- Mutual Cancellation of Quitclaim and Warranty Deed (Lots 17 and 18),
- Mutual Quitclaim Deed with grantor being County of Kaua'i and State of Hawai'i for Parcel B-1,
- Mutual Quitclaim Deed with grantor being County of Kaua'i and State of Hawai'i for Parcel B-2,
- Mutual Quitclaim Deed with grantor being State of Hawai'i for Parcel C.

Ms. Nakamura moved to approve C 2012-384, seconded by Mr. Rapozo.

There being no objections, the rules were suspended.

AMY ESAKI, First Deputy County Attorney: The documents that are before you for approval is to make a correction to a deed that was executed back in 2008. It was due to the fact that when the County quitclaimed the deeds, Habitat subsequently did a title search and found out that the State owned part of the roads. So, therefore, we had to make corrections to the prior deed.

Ms. Nakamura: Usually before you do a quitclaim deed, do you do a title search?

Ms. Esaki: We generally do. I can't explain what happened in 2008.

Ms. Nakamura: Okay. Thank you.

Mr. Rapozo: Can someone explain what happened in 2008?

Ms. Esaki: I am not sure of anyone here has information on the 2008 document.

Mr. Rapozo: The final should have some information, I would guess from 2008.

Ms. Esaki: Perhaps.

Mr. Rapozo: That is kind of a -- I mean, I understand that is kind of a mistake, but -- because I believe we fund the -- we budget for those title searches, and it's interesting that Habitat found the error and not us. So, I guess, I am trying to...

Ms. Esaki: Well, Habitat did prepare -- through their representatives, they did prepare the deeds.

Mr. Rapozo: It's just...

Ms. Esaki: Not the County.

Mr. Rapozo: So we didn't do the...

Ms. Esaki: No, we didn't do the...

Mr. Rapozo: The title search.

Ms. Esaki: The quitclaim deed, exactly.

Mr. Rapozo: Okay. Thank you.

Ms. Yukimura: So you said it was discovered that the State had an interest in the land?

Ms. Esaki: Well, apparently, there was a road widening, and I guess the County thought it owned that portion; however, due to the title search it was discovered that was still within the State's jurisdiction. It may have been partly due to the meets and bounds description as well.

Ms. Yukimura: So this is being amended now?

Ms. Esaki: It is being cancelled and then reissued.

Ms. Yukimura: With the...

Ms. Esaki: With all three parties: Habitat, State of Hawai'i, and County of Kaua'i.

Ms. Yukimura: I see. Okay. And are there any financial consequence?

Ms. Esaki: No financial consequences.

Ms. Yukimura: All right. Thank you.

Chair Furfaro: Amy, let me ask you, what is our procedure about title searches?

Ms. Esaki: Generally, if the County is acquiring the property, the County would do the title search. If the County is deeding over the property, not necessarily will the County be going off a title search.

Chair Furfaro: Okay. So...

Ms. Esaki: A quitclaim doesn't warrant title.

Chair Furfaro: Understood. So this is really about correcting the deed.

Ms. Esaki: That is correct.

Chair Furfaro: Members, any questions? Go ahead, Mr. Kualii.

Mr. Kualii: Aloha and mahalo for your work. Just quickly, so – just to understand, there are no financial consequences?

Ms. Esaki: Yes.

Mr. Kualii: Is this involving property where Habitat, the State, the County are all in partnership and whether the land is being donated or provided to Habitat from the County or the State, it's still ultimately for Habitat to do a project?

Ms. Esaki: That is correct.

Mr. Kualii: So that's why no financial consequences?

Ms. Esaki: That is correct.

Mr. Kualii: Okay. Thank you. Thank you, Mr. Chair.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2012-384 was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: So are we going to stay in legal documents here?

C 2012-382 Communication (08/29/2012) from the Director of Parks & Recreation, recommending Council approval to acquire Lots D-2 and E-2, Niulani Tract, Waipouli, Kawaihau, Kauai, for use as part of the Lydgate-Kapa'a Shared-Use Path, estimated at \$17,992.75 (\$6,300.00 for Lot D-2 (201 SF), \$8,800.00 for Lot E-2 (281 SF), \$2,260.00 for utility easements and \$632.75 for closing costs, including title insurance, escrow, and fees).

- Warranty Deed (TMK (4) 4-3-009:71)

Ms. Yukimura moved to approve C 2012-382, seconded by Mr. Bynum.

There being no objections, the rules were suspended.

Chair Furfaro: Mona, are you representing the department that is requesting this?

MONA CLARK, Deputy County Attorney: Yes.

Chair Furfaro: Okay. Are there any questions, members? If not, thank you, Mona. Any testimony of Mr. Mickens?

GLENN MICKENS: Thank you. For the record, Glenn Mickens. You have a copy of my testimony. I may sound like a broken record, but this is a passionate subject with me. It took me 18 years to get action on our roads, but it has finally happened, and I am happy to see it being done. Yes, Kim, I am. I am not going to let up on this because it is my opinion. And I think that people will pretty much agree with me. We are proposing to spend another roughly \$22,000 on acquiring land to build this. And, Jay, with your permission, I would like to do 382 and 383 together. They are basically the same subjects.

Chair Furfaro: You may. Go ahead.

Mr. Mickens: Thank you very much. We are spending an obscene \$5 million a mile to build it, a project that questionably will never be finished. Remember that it has taken 10 years to complete 6.8 miles and with the economy still hurting badly, projects like this are going to be the first to be terminated. And even if finished, it will never benefit the masses of the people. The small percentage of the population will use it for recreational purposes. But why are we not spending our time, resource, and money on building all rented roads on Kaua'i for the benefit of 95% of the community. As Joe Rosa has said, these funds come from transportation enhancement sources, as we all know, but even if they can be used for a pass, which are questionable forms of transportation, this money should be lobbied for elevating traffic as a new section of highway now opened on the West Side. This is truly transportation enhancement. Thank you Ray McCormick. And for you guys that haven't driven over that yet, I think it's just a wonderful piece of work. More buses, bikes, or rail is not going to get the masses in their vehicles out of their vehicles. Live in the real world and accept that as fact. And, again, show me any member of this Council who leave this building to get on a bus or bike to go home or whatever – JoAnn? Tim? It's not going to happen. All the rhetoric in the world is not going to change what is reality: we will not give up our vehicles. Ernie Pasion and his staff did an outstanding job in the audit of the roads and the new

fire station. It is time for him to do an audit of the path as it was once proposed to be done by Marian Higa on the advice of Councilman Rapozo. Anyway, that's my testimony. I appreciate, Jay, your giving me the latitude. I know I probably got off of the agenda item, but the total agenda item was about these. But, again, I keep on asking any of you guys. Jay, you, in particular, you're driving all the way to the North Shore, are you going to get on a bus or bicycle or walk or whatever to try and get home every night. It's not going to happen, Jay.

Chair Furfaro: Well, let me tell you this, this is an inspired vision that this community has had. But if I ever want to get my sugar down, I'm going to have to start walking. How far? I don't know.

Mr. Mickens: Not from here to Princeville, though, you're not going to walk. You are not going to go shopping to the store and do your...

Chair Furfaro: Let me correct your commentary. You asked me, and I said I have to start walking, okay?

Mr. Mickens: Right.

Chair Furfaro: That's the only way I am going to get off the insulin, okay.

Mr. Mickens: I do understand that. And as Mel once pointed out, if you want to exercise, you can do it in your own neighborhood. I have been doing it for 20 years being over here on this island. No problem. I don't need a \$5 million a mile bike path to do it on. It is up to you to be able to do it whether you got a stationary bike or what. It's up to you to do it.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Again, I was liberal in allowing the testimony. But, again, this is a community-inspired vision that brought this to the table. And I accept your testimony on all the items.

The motion to approve C 2012-382 was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST APPROVAL:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

C 2012-383 Communication (08/29/2012) from the Director of Parks & Recreation, requesting Council approval to acquire Lot B-2, Niulani Tract, Waipouli, Kawaihau, Kaua'i, for use as part of the Lydgate-Kapa'a Shared-Use Path, estimated at \$3,539.00 (\$3,000.00 for Lot B-2 (86 SF) and \$539.00 for closing costs, including title insurance, escrow, and fees.).

- Warranty Deed (TMK (4) 4-3-009:38)

Ms. Yukimura moved to approve C 2012-383, seconded by Mr. Kuali'i, and carried by the following vote:

FOR APPROVAL:	Bynum, Chang, Kuali'i, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

C 2012-385 Communication (08/28/2012) from the Civil Defense Manager, recommending Council approval for the second amendment, five (5) year lease agreement between the County of Kaua'i and Bank of Hawai'i, Trustee of the Kukuilono Park Trust Estate, which extends the lease of the County's 800 MHz radio site located at Kukuilono Park in Kalāheo, Kaua'i, Hawai'i, for emergency radio communications for the County of Kaua'i, which license fee will be paid in incremental increases of three percent (3%) each year for the five (5) year period commencing July 1, 2012.

- Second Amendment of License Agreement

Ms. Yukimura moved to defer C 2012-385, seconded by Mr. Kuali'i, and unanimously carried.

C 2012-386 Communication (09/14/2012) from the Housing Director, requesting Council approval of the following:

- Purchase Agreement between County of Kaua'i and Westridge Properties LLC, for the Purchase of Real Property identified as Parcel 1 TMK (4) 3-6-09-01, and Parcel 2 TMK (4) 3-6-04-09, Līhu'e, Kaua'i, Hawai'i. *(Copies of Exhibits B, C, D and E are on file in the County Clerk's Office.)*

Ms. Yukimura moved to approve C 2012-386, seconded by Mr. Chang.

Ms. Yukimura: Chair, could we have Housing just come to briefly describe the project? It's an infill affordable housing project that is quite exciting. And I would like the public to just know about it.

Chair Furfaro: Okay. Please add to our excitement, gentlemen, if you could come up. You need to both introduce your selves; the rules are suspended.

There being no objections, the rules were suspended.

GARY MACKLER, Housing Development Coordinator: Good morning, Council. Gary Mackler, Housing Development Coordinator.

KAMUELA COBB-ADAMS, Housing Director: Good morning, Kamuela Cobb-Adams, Housing Director.

Ms. Yukimura: Kamuela and Gary, thank you for being here, and I don't anticipate that this will take very long, but you are working on a very exciting project, and I thought maybe so people could understand the action that is before us, you could describe the project and then we know that this is acquisition of the land, right?

Mr. Cobb-Adams: Good morning, Kamuela Cobb-Adams again. It's a very exciting project, as JoAnn spoke to. It started before I was here. Gary Mackler was pretty much taking the lead on this. We are getting to – past the first step very soon, which is the purchase of land in Līhu'e, which was previously referred to as "Rice Camp." And the next phrase for us would be to purchase it and partner with some affordable housing developer to provide affordable elderly housing for the people of Kaua'i in Līhu'e right off of Rice Street. It's an ideal location for an ideal purpose and very excited about the possibilities. And Gary can probably fill you in a little bit more on the history because he's been involved a while.

Mr. Mackler: Last year we were in negotiations with the seller, Westridge Properties. I think I reported to you at budget that our negotiations came to a halt after the appraisal came in below what the expectations were of the seller to try and sell these two parcels. But we are talking about five acres of land, most of which is zoned R20. And earlier this year, in March, the seller's representative came back to us and indicated that they would be prepared to sell the two parcels at the appraised value that we commissioned. And so we came before you at budget and asked if you would consider using bond funds money to help us with this acquisition. I should point out, these two properties are currently zoned to accommodate 84 housing units, which is a significant number of units. And we have been working with the seller through the pre-acquisition due diligence we have conducted and the purchase agreement, which is now before you. Today for your consideration. The approach we hope to use – or intend to use, actually, to develop is to issue a request for proposals, as Kamuela had stated to bring in a development team that can help to finance, design, construct, and operate these affordable housing units, which we expect to be in perpetuity. I expect we will be back before you at some point in the near future to be asking for your consideration to make a ground lease available to the successful proposer who is chosen for this development. There is – we are at the beginning of the development process – and it's can be a long journey at some times to get these projects developed, but we have been able to use this approach successfully in the past, most recently with Paanau Village Phase II. And we intend to follow a similar process for the development of this project as well.

Ms. Yukimura: Yes, I think that is good. And thank you very much. I just got a thought, as you described Rice Street, it's right there down Rice Street here, "Rice Camp" is the older name of the neighborhood, that maybe if there is a way to incorporate some of the history of Rice Camp into the development, even just with photos or stuff, that would be nice.

Mr. Mackler: Sure, we have been talking about these parcels with George Costa, who grew up on one of those – on the smaller parcel.

Ms. Yukimura: Oh, really.

Mr. Mackler: Very fond memories of his growing up there, so...

Ms. Yukimura: And the development plans for Rice Street itself to make it – and the urban core plan – to make it more walkable and bikeable and all that, it sort of ties in nicely in all its parts. So I am thankful for the presentation, unless there are other questions.

Chair Furfaro: I really like the idea of doing a little history piece there. I know we talked to George Costa, and he would tell us when he was a kid, he would fish from the stream, but we are looking for a little bit more than that from you.

Mr. Mackler: Sure, of course.

Chair Furfaro: I want to make sure we understand that. It's a wonderful opportunity to perpetuate some history with that camp. So please consider that. Councilwoman Nakamura.

Ms. Nakamura: Thank you for that short presentation. I wanted to find out is the concept a one- or two-story walkup or what is the general...

Mr. Mackler: We think actually what would serve well for the concept of this type of housing – well, it needs to be all accessible, for one. And to get the density you need on that site, you would need to go up at least – we think it's going to be three-story structures, because then you have an economy of scale where you can elevator the buildings and make all units accessible for the tenants.

Ms. Nakamura: Yes. That is what I was wondering is, are you going to go down the 201, is it, G or H route to exempt yourself from any of the Code in order to accommodate an elevator and, hopefully, higher density.

Mr. Mackler: Well, I don't know that we will need to use a 201 H process, maybe the County's 46-15, which is the same powers as the State. But I don't anticipate any major usage of that authority because the sites are already zoned; they already have density. We know in the Līhu'e town core plan, that this site is already earmarked for multifamily housing at its existing density, so I don't expect too much in that.

Ms. Nakamura: Do you also plan to have some community meeting space for services to the elderly?

Mr. Mackler: Yes, we do. I think it's important because one of the things that the Līhu'e town core plan took into account with this site is the pedestrian accessibility. I think there's a fair amount of discussion that needs to be heard about that to optimize the best pathways in that area. We also want be good neighbors, and we want the development partner we select to be a good neighbor and to be sensitive to the concerns of the surrounding community. There is residential adjacent to the property as well as other commercial retail businesses, so it would be very wise, I think, on our part, as well as the developer, to go through that process.

Ms. Nakamura: I guess my concern is if we are trying to promote Aging In Place and to provide for the needs of the elderly, and to keep them socially engaged and involved, that that meeting space is really critical. And sort of the need to plan ahead if we know there is going to be social service provider of those

services. I am not sure if we are going to go down that route or not, but it's probably good to look at that upfront.

Mr. Mackler: Right. I agree.

Ms. Nakamura: Okay. Thank you.

Mr. Kuali'i: Aloha and mahalo, Gary and Kamuela for being here and for the work that you do. I was just curious as to if we could maybe do more. I mean, it is an ideal location in the middle of town. I used to live across the street from the fire station. And you can walk to everything, and ultimately, there is no grocery store now, but maybe it will come back in some form. And with the other residential complexes nearby: Lihu'e Court, Kalapaki Villas. In keeping with – in maximizing how many people you can get in there, is four stories even an option or is three, then, at the height limit?

Mr. Mackler: A lot of these ideas – what we are doing at this point is first purchase the land. Second, reformatting RFP. Right now Gary and staff are working on the RFP. And the idea is to get as much interest from partner, private partners to come in and strategically set our RFP to encourage creative minds. So if we get five, six, seven developers in, we are going to make the scoring so that it supports extra type of developments, community spaces. If they put in sidewalks, they are going to hire – so we are trying to encourage through our RFP a lot of these extra activities. On top of that, we have been talking with Planning as well as George Costa, basically, because I think we can stir up development in that whole area, whether we strategically put sidewalks in different places, or different things, making it walkable access. And, hopefully, working with the business community to encourage them to support or just communication to provide more resources to that community and kind of lift up Rice Street as a whole, from a business standpoint, from a living standpoint. So I think it's a good project in that sense because it's bringing a lot to that area. And the ability to partners, where there is hopefully bridge our resources to hopefully make the whole area a better community. So it's very exciting.

Mr. Kuali'i: I am just wondering that if – I mean, before the RFP goes out, your setting some limitation?

Mr. Mackler: Right, right.

Mr. Kuali'i: So I am wondering if not -- according to smart growth principles, complete streets, all of that that this is not ideal opportunity to maximize that situation, as far as -- I think demand for living in that city core is going to grow and grow as people realize – and not just with senior, but a lot of different people, they don't want to drive, you know they want to live in a certain way. And I think Lihu'e can grow in that way. And I just wonder if we just incorporated all of those principles as far as really maximizing, according to what they say, not necessary according to the limitation of density at this point. I think what Councilmember Nakamura was talking about was are we looking at those possibilities too beyond what is approved.

Mr. Mackler: Chair, I would say right now, we thought it was a pretty high density for the parcels and the shape and configuration. We are always open to hearing different perspectives—

Mr. Kuali'i: I am curious then far as what is around it like the town homes—for the area how many they have and is this in line or is this less or more? I think it is probably less than the town homes.

Mr. Cobb-Adams: Līhu'e Court Townhomes?

Mr. Kuali'i: Yes.

Mr. Cobb-Adams: They currently have 173 housing units there.

Mr. Kuali'i: Yes. In that similar area?

Mr. Cobb-Adams: Then of course in front is Kalāpaki Villas.

Mr. Kuali'i: Yes.

Mr. Cobb-Adams: I am not sure what the unit count is in that project. But between Līhu'e Court Townhomes and these sites, there are single family residences as well.

Mr. Kuali'i: Right.

Mr. Mackler: There is a whole mixture of use in this area.

Mr. Kuali'i: Yes. I just hope we are looking at maximizing it as well. Thank you.

Mr. Bynum: Thank you for being here today. I just have a couple of questions. Is this actually in the Līhu'e Town Court area or just adjacent to it?

Mr. Mackler: It is. It is in the Rice Street sector of the core. In fact...

Mr. Bynum: It would allow formed-mix use potentially?

Mr. Mackler: Potentially, yes.

Mr. Bynum: There are no deed restrictions on this purchase?

Mr. Mackler: No.

Mr. Bynum: I am very happy about this, Gary. You and I have been talking about this plan in that area for several years.

Mr. Mackler: Yes.

Mr. Bynum: I am very proud of the Housing Agency and it is one of the strongest parts of our County. This is an example of that kind of initiative. Thank you.

Ms. Nakamura: So two things. One is the existing senior rental housing that we have in Līhu'e, what is the vacancy rates on those? Is there a waiting list to get into those units?

Mr. Mackler: There is for Līhu'e Theater. I am not sure about Līhu'e Elderly Gardens, but I think there is a list though. I know that in the other—for those two projects, I am not sure about the Sun Village Project, but there is a wait-list.

Ms. Nakamura: Do you believe that the market can absorb the 93 units?

Mr. Mackler: Yes. We are actually, when we structured the request for proposal, we are going to look at—a developer is going to have to do a site-specific market study even to submit an application to the state for financing. We hope to have more definitive information when that is completed. You know these sites could either be developed simultaneously or they could be developed in a staggered way. Because, you could do one site and then a few years later come in and do the second site. So we are going to leave those options open.

Ms. Nakamura: I think what I am hearing from some of the Councilmembers and what I am thinking, too, is that this is such a great location for any type of development. To sort of be open to the possibilities of possibly mixed-use, possibly higher density or reconfigured density to have greater open space. So allow for maybe community interaction areas, indoor and outdoor. You know? To really think and be open, if the market cannot absorb the 83 seniors, maybe have some family housing to have a mixed community. So it is just something to consider, if we are doing an RFP. Do you want to limit it or open it up to some possibilities?

Chair Furfaro: Any other questions? If not, thank you gentlemen very much, for being here.

Mr. Mackler: Thank you Council. Thank you for appropriating funds for this acquisition.

Chair Furfaro: We appropriate funds when we are excited. This is an exciting project. Right in the heart of town. Please take the commentary on the opportunity to perpetuate some of the history in this project. I think that is important.

Mr. Mackler: We will do that. Thank you.

Chair Furfaro: Vice-Chair, did you have another question for them?

Ms. Yukimura: We are really happy when we see the really good use of the moneys we have appropriated.

Chair Furfaro: Yes.

Ms. Yukimura: Thank you.

Mr. Mackler: Thank you.

Chair Furfaro: Very happy that we have an opportunity to spend wisely. I will let you go, gentlemen. Thank you very much for being here. Is there anyone in the audience that would like to comment? Mr. Mickens, please come up.

Mr. Mickens: Thank you again, Jay, for the record, Glenn Mickens. I want to thank our housing people for their efficiency and attending to these projects. By their testimonies, they indicate how hard they work and their knowledge of their job. Since I have been attending meetings, it has always been a job with these people and I certainly appreciate it. Thank you, Jay.

Chair Furfaro: Thank you, Glenn. Anyone else? No? I will call the meeting back to order. Discussion, Councilmembers, Mr. Rapozo, you have the floor.

There being no objection, the meeting was called back to order.

Mr. Rapozo: I just wanted to thank the Housing Department, Kamuela and Gary. I do not know if this even started with Ken. Was Ken still here when this all originated? I remember the original discussions when the land became available started quite a while ago. My point is that I have been a very strong advocate for a long time for land banking. Because when we have the land, then all of a sudden the opportunities become plentiful. When we do not have land, then the opportunities obviously diminish. So this was a perfect example of—and again the County standing firm on the appraisal so we did not spend more. The developers says no, we are not going to let it go for that. That is too low. We thought we had a goldmine here and with the economy as it is today, it was not necessarily a goldmine. It was a silver mine, but we got it at the appraised price. Nobody can argue that we got a good deal. We did and now that we have the land and as you heard from many of the suggestions today, the opportunities open up. So I would just encourage the Administration when there are opportunities like this and if we have an opportunity to purchase these types of parcels, especially today, when we have all of these distressed properties, that there are opportunities. And that we can actually develop, allowing the experts to come in. This is just the first phase and going forward, it is exciting, because all of your proposals will come back and we will be able to see so many more different suggestions that we can make that a wonderful place because it is ideal. The location is great. There is a Fire station right there. I think it is a good project. So keep up the good work. Thank you and good luck.

Chair Furfaro: Mr. Chang.

Mr. Chang: Thank you, Chairman. I just wanted to add that I like that historic aspects of the Rice Camp and I have been wracking my brain to remember just how far the train goes. I am not sure if the train goes back in that area. But if it is anywhere close, it might be cool if the seniors have an option to go on the train just to go holoholo. For those who can walk, if we can make it up the hill, the bank is there, and the Mōīkeha Building, and they can do their business and jump back on the train. Hopefully they will do the train more than just Thursday, but it might be a nice Thursday afternoon holoholo opportunity to get on the train, get some exercise and walk around and maybe just walk down Rice Street on the way back home. I like that idea and I like that historical aspect of the area. Thank you.

Chair Furfaro: Members, what I want to say—I want to give a lot of praise to the Housing Department for the fact that they spent the time to really negotiate through this. There was a lot of back and forth conversations with the acquisition of the property. Then really identifying the critical need in Līhu'e town core. There were considerations going back and forth about price and so forth. But they really stayed with the negotiations and you should be complimented on that. I know this process stayed way before and Kamuela, you hit the ground running and picking up where the negotiations were and Mr. Mackler, it does not need to be said, but I will say it; thank you for your focus on this. It is very much appreciated. Okay. Thank you. On that note, let us call for a vote.

The motion for approval of C 2012-386 was then put, and carried by the following vote:

FOR APPROVAL: Bynum, Chang, Kualī'i, Nakamura,	TOTAL-7,
Rapozo, Yukimura, Furfaro	
AGAINST APPROVAL: None	TOTAL-0,
EXCUSED & NOT VOTING: None	TOTAL-0.

Chair Furfaro: Thank you very much for coming over. Now we have three items on the agenda dealing with the Prosecutor's Office. The ones I want to do deal with, because we only have 30 minutes and we have a very tight schedule here, so they may have to come back. First of all, I want to make a note that Kipukai has a recusal letter that has been submitted to me, regarding item 373. Please note that I do have that. We have had a request from Civil Defense on a deferral for two weeks. As I have sent over some questions, but also we have public hearings at 1:30 and then at 2:00 we have Special Council. Reagan Iwao, who has a very limited time for us to do a call-in on Executive Session. Let us deal with the two items of the Prosecutor's Office that deal with approvals on grant money.

C 2012-373 Communication (08/08/2012) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Non-Compliant Sexual Offender Unit Federal funds in the amount of \$145,000.00, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for salaries, fringe, and operational expenses for the Office of the Prosecuting Attorney Non-Compliant Sex Offender Unit for the term commencing December 1, 2012.

Mr. Kualī'i: Because of my involvement with the Y.W.C.A., I will recuse myself from deliberation on this item.

Mr. Kualī'i was noted recused from this item.

Mr. Rapozo: Just a suggestion that we take 336 and 374 before he recuses, so that when he recuses, he can...

Chair Furfaro: So he gets a jump on lunch?

Mr. Rapozo: Well, it takes time for the recusal and then to call him back...

Chair Furfaro: I only want to deal with grant items... I think Mr. Rapozo has made an exceptional comment. We will keep you at the table and you can bring me back dessert.

C 2012-374 Communication (08/08/2012) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds for the Kaua'i Open Drug Market in the amount of \$75,000.00, to be used for overtime, consultant fees, training, office supplies, and information for the Office of the Prosecuting Attorney, Kaua'i Drug Market Initiative, for the term commencing December 1, 2012 and to indemnify the State of Hawai'i, Department of Attorney General: Mr. Rapozo moved to approve C 2012-374, seconded by Mr. Kualii'i.

JAKE DELAPLANE, First Deputy Prosecuting Attorney: Just as a brief overview and I will try to be as brief as possible with the drug market initiative but we have been speaking with the Mayor's Crime Task Force, the Drug Enforcement Committee, the Police Department, and a lot of our community resource partners that are out there on different strategies to take to take out the drug problem on Kaua'i. We all know that it is definitely a problem that faces all of us and it almost impacts almost every facet of not just law enforcement but also a variety of different community issues. In looking at innovative ways to deal with the drug problem, obviously we need to look at treatment options but as far as enforcement goes, the sort of by and bust cycle that the Police Department and the Prosecutor's go through, while it can be effective, it just does not combat the problem at its root. That is what the drug market initiative is all about. This is a program that has been implemented across the Country; it has had amazing success in cities like Baltimore, Nashville, Memphis, and quite a few other cities and at first blush it may seem like this maybe some that is better fits to big cities, this is an extremely targeted initiative that focuses on small pieces of those communities and focuses on not only the high crime areas but it brings in people from the surrounding community – faith base organizations, non-profit organizations – those sorts of groups to (inaudible). To explain what a drug market initiative is and what the intervention is, there is essentially three (3) phases. You have the first phase which is the identification phase, where you identify what areas are your basically your drug markets, your high crime, high drug market area is. On Kaua'i, I think a lot of us know where they are – Hanamā'ulu Beach Park, Hanapēpē Tennis Courts, Black Pot in Hanalei that is a hot spot for drug activity and there is also an area behind Kekaha Neighborhood Center that we see a lot of cases from. So, identifying a lot of these areas is fairly easy because we do not have a big island and a lot of our cases come from the same places. That is the first phase, identify what your problem areas are. As part of that, you identify who your offenders are? Under a Drug Market Intervention Plan, the Prosecutor's work with the Police Department to identify who the major drug dealers are in their communities, who are the people that are out there time and time again, out on the street corner dealing meth and prescription drugs to our kids, neighbors, and families? Once that information is

gathered by the area and you have the offenders than again, the Prosecutors will work with the Police Department to get arrest warrants on these people. They go out, do surveillance, do control purposes, take photos, and pictures, do all the things that we normally do in a drug prosecution and we target these specific areas and individuals and at that point we go and get an arrest warrant. We draft it out and get it ready and the arrest warrant gets signed. This is the part where it starts to deviate from what we normally do because normally when we get a arrest warrant, the Police Department goes out and serves it, the person gets taken into custody, and then we charge them with the offense and with the Court process here under the drug market initiative plan, instead of arresting the individual, we will send them a letter. That letter says, "next Tuesday night, we will be having a community meeting at the neighborhood center, we do have a warrant for your arrest but that warrant for your arrest will not be served, anything you say at this meeting will not be used against you for your drug case and we encourage you to show up because we all as a community can sit down and talk about what we can do to get you to stop doing drugs in the community." It kind of sounds farfetched – it sounds like something that probably would not work very well but incredibly across the Country we have seen it produce incredibly results. At this meeting, you have community members, people who live in the neighborhoods, family members of the offenders, law enforcement, community leaders like yourselves – you have people that have a real connection to these offenders that can make it that impression. The evidence is presented to them, they are shown their pictures, videos of them dealing drugs, they are shown all these things saying, "we got you and here is the arrest warrant for your arrest." We have to stop this right now and what can we do to intervene? It is an open discussion with the offenders, they are given access to resources and that is where the community partnerships come in and we built a relationship with the offender, a plan with the offender, how are we going to get them to stop offending and what are we going to do to make sure that it stops. That is essentially the second phase which is the call-in phase – that is what the meeting is. You have your investigation or information gathered and your calling phase, and then you have your follow up and that is where you have your resource people and community leaders come in. You conduct follow up meetings with these individuals, you make sure they have access to treatment and you also through the Police Department and Prosecutor's Office, you track their progress. If they are going to out and reoffend again, will you just serve your arrest warrant that you already have. What we are looking at is – for this grant is funding to conduct trainings not just for the Prosecutor's Office but for everyone involved. Members of the Legislative grants, members from the Administration, community leaders – all those individuals will play key roles in this initiative to train on this, to train with best practices to review the data, to see what worked in the past, what has not worked in the past, and devise a strategy that is really going to work for us.

In presenting this idea to a lot of different community groups that we meet with and also some of the committees we sit on, there has been overwhelming

support for it. Mainly because I think people realize that this sort of – this approach to law enforcement is really something... it sounds like what is unique in our culture here and community here anyway. That is family involvement, these ideas of hooponopono, getting together and working through problems and talking them out instead of taking this top down approach where you sit up on your big throne and just throw out punishment to everyone who is an offender. We were looking forward to it. I had numerous conversations with the Police Chief about this program and while we are seeking funding for this from the grantors – even if we do not receive funding for this, it is something that we are going to move forward on because it is not something that is going to cost a lot of money, we have the resources in place already, and we want to start doing something different and being smart on crime instead of just talking crime.

Chair Furfaro: Jake, this is seventy-five thousand dollars (\$75,000.00)?

Mr. Delaplane: Yes.

Chair Furfaro: You applied for the grants and the grant is made available to you, and then this is intended – this money, when you get these social service people even clergy together.

Mr. Delaplane: Yes.

Chair Furfaro: They will get this in the training to actually be mentors and assist these people that is the intent.

Mr. Delaplane: Yes, that is the intent and the key for the whole program.

Chair Furfaro: And it include clergy.

Mr. Delaplane: Yes, it could include faith base organizations.

Mr. Rapozo: You referenced the Chief of Police, I see him as one (1) of the personnel in the grant documents.

Mr. Delaplane: Yes.

Mr. Rapozo: So, I am assuming the Police Department is supportive of this title?

Mr. Delaplane: Absolutely.

Mr. Rapozo: I never heard of anything like it. I think five (5) years ago, I would have said, "no, you are crazy." But it is obvious what we have in place today, it is not working. I commend your office for looking outside of the box. I am reading the incident review when this program starts to review the targets. I am assuming and would hope that as you review these targets, that targets that have extensive criminal backgrounds and crimes of violence, because the narrative mentions it but it does not say that they are going to be disqualified from the program. I am assuming that the group that you are working with or bring into this program, would not be the hardcore criminals.

Mr. Delaplane: Sure and that is part of the national model. Any individuals that is associated with violent crime, once we get the information for the arrest warrant, they will be arrested and held accountable. It is the lower level/lower risk type of offenders that we are looking at, not necessarily only first time offenders but definitely none violent offenders because our violent offenders, we want to focus on and get them incarcerated.

Mr. Rapozo: I think the street level and what you put in here "mid level" I think those ones, I think we can... again, this is the first time I have heard of it but I believe we could get success with those. I think a lot of them are looking for a way out and they do not have it right now. There is no way out in many cases until they get arrested and they are sitting in jail or cell block wishing they never did what they did. I am excited and I am hoping we can get this funded asap. Whether it is funded or not, when we anticipate implementing the program?

Mr. Delaplane: Our projected start date was December 1 but we are already in the planning phases of getting this going. So, we are already in discussions with Police Chief in getting this going.

Chair Furfaro: Anymore questions regarding this grant applications 374?

Ms. Yukimura: I like it and it sounds good. It is certainly worth a try and I like the approach that it is addressing community. My question is, it is clear that it is going to involved the Prosecutor's Office and the Police and some trainers, so, what kinds of trainers are you looking at? Where will they come from?

Mr. Delaplane: The Bureau Justice Assistance actually has a program in place and I talked about three (3) phases of a Drug Market Initiative. Within those three (3) phases there are actually nine (9) steps. There is a training that the Bureau of Justice Assistance puts on every year, I think they actually do a biannual trainings on this and that is what we are looking at attending. Whether it is flying someone out here to do the training for everyone or coordinating groups of individuals to go out... but the core of this is getting all the different groups – the

Prosecutor's, community members, Legislators – all different branches that are going to be involved in this to train together and understand what the expected outcome is.

Ms. Yukimura: So, it sounds like it would be much more cost effective to bring a trainer in?

Mr. Delaplane: It would normally but you are going to have multiple different trainers, right? Because just as many people are going to be involved in the process, you have that committee trainers that basically say this is what our community resource organizations do, this is what our Prosecutor's do, here is what our law enforcement officers do and there are other things involved with that as well because some of the law enforcement trainings as far as the investigation phase of that, it is not going to be so much applicable to the faith base organization. The faith base organization may not need to know how to do a takedown, and surveillance on some of these drug offenders.

Ms. Yukimura: Right, they do not need to know that.

Mr. Delaplane: Right. All the trainings may not be incorporated together that is why some of them may be split and people set.

Ms. Yukimura: Of course.

Mr. Delaplane: And for the actual training phase on the call in, that would likely be something that you bring a trainer in for and you do a mock call in and so basically you do a meeting and a run through of what one of those meetings would look like.

Ms. Yukimura: Who is going to coordinate this program?

Mr. Delaplane: So, it will be coordinated through our office.

Ms. Yukimura: By whom and what position?

Mr. Delaplane: Our program coordinator position.

Ms. Yukimura: And you have somebody in that position right now?

Mr. Delaplane: Yes.

Ms. Yukimura: Who is that?

Mr. Delaplane: I can give you that information and employee number at a later time. I actually do not have her employee number.

Ms. Yukimura: I do not need an employee number, just need a name.

Mr. Delaplane: Nani Lizama.

Ms. Yukimura: Okay, good. What is the role of the Bureau Justice Assistance... and Nani would go and get training and then you would bring in a variety of trainers to train the different groups?

Mr. Delaplane: It would actually be a lot of the individuals that would be involved with and receive the same training that Nani would get and also the Prosecutor involved and whoever would be coordinating this. I would imagine it would be the Lieutenant assigned to the Vice and (inaudible) of the Police Department and also a representative probably from the communications team with the Mayor's Administration, so that everything can be set up with the community meetings and all that. There is a lot of moving parts to this but as far as... we have to have one (1) central agency that is coordinating it and we are taking the lead on that at the Prosecutor's Office.

Ms. Yukimura: When you say your goals and objections are to reduce the number of open air drug markets on Kaua'i by fifty percent (50%) during the first year, which sounds really good – sounds ambitious but good, in your first phase, you are going to determine how many open air drug markets there are?

Mr. Delaplane: Yes.

Ms. Yukimura: Rather than just do a pilot and choose one (1) open air drug market that seems really good to work on and then see how it works with that community and then go from there and learn from your pilot?

Mr. Delaplane: I think with... and they saw this is the other communities that they were dealing with, you are better off casting a wide net especially during that investigation phase because you do not know from the beginning how much you are able to get and whether you will be able to get enough offenders to really make an impact. If there are fairly adapted in what they do in those areas, sometimes it is really difficult to gather all the evidence to really get that arrest warrant or to make it very clear, get video surveillance, get control purchases, things like that in place so that you have people already there. Since operations are already conducted across island wide already and I named probably the four (4) drug markets that there are – that is what we want to focus on. Plus, we want to benefit the community as a whole. In each community from the

Westside up to Hanalei, you can pretty much identify a drug market in each one of our communities that we know are being effected every day.

Ms. Yukimura: So, I can see maybe doing a survey of the broad matter or what the issues are island wide but I would say you would have a lot going on – like ten (10) ring circuses or four (4) ring circuses if you are trying to do it all at once.

Mr. Delaplane: Sure. It would probably be phased as well. You would focus on one (1) during the first month and again some of these operations may go very quickly and others may take more time to develop. You also do not want people catching on, right? Because if people catch on that you are doing a sting operation in one (1) area, they are just going to move to the other area. But if you have your hands in every community there and see what is going on in each of these places and you will have a better idea of how to enforce.

Ms. Yukimura: Well I mean if you have one (1) success in one (1) area, that will teach you a lot. That is up to you but the... I think it is worth the try and it sounds very innovated, that it is community base is good but dealing with community takes a lot of sensitivity and good organization.

Mr. Delaplane: And that is why we need help with all the partners in this. We are looking forward to working with all the groups to make this happen.

Ms. Yukimura: Thank you.

Chair Furfaro: Members, I do want to remind you, we have three (3) grant items I am trying to cover before we break for lunch and one is with IT. Again, those strategies of how they implement this, it is fine to ask the particulars questions but I do want to make sure we understand it sounds like they are going to implement these whether they receive the grant or not. Jake, I might break this up a little bit and I also want you to know in advance, since we got your answers back on your P.O.H.A.K.U. piece, I am ask for a deferral on that. I am not sure yet because I have not even had the time to read the responses, so just giving you the heads up right now.

Mr. Rapozo: I understand the time but this whole process of the wide net approach, that is the model?

Mr. Delaplane: Yes.

Mr. Rapozo: The is the national model?

Mr. Delaplane: Yes.

Mr. Rapozo: So, to do a pilot of individual spots would be going against the model?

Mr. Delaplane: Yes.

Mr. Rapozo: Thank you.

Ms. Yukimura: If you are going to do it anyway, that means you have the money for doing it?

Mr. Delaplane: We do not have the money for training, obviously. What we are going to look at is getting with each of our groups and seeing what we can do to put together a training plan to get this in place and get this going. There are national publications that are available, it is just going to take the commitment from each of the groups to get it going. We would love to have the money from the Federal Government in order to implement this but it is not one hundred percent (100%) necessary and if we do not end up getting the grant, it is not going to be a huge hindrance to us. It would certainly make it easier if we had the funding available to get the best and the brightest out here to guide us going forward.

Ms. Yukimura: Sounds to me like you need the money because if you do not have good training, that is a really big hole... that is dangerous to do it adhock and without... especially if you are trying to replicate a program. There is this thing called fidelity that requires that you do it according to how the program you are emulating was done.

Chair Furfaro: So, sounds like you have a vote there for the money.

Ms. Yukimura: Okay, and we are going to be watching carefully how you implement and use the money. Thank you.

Chair Furfaro: After we get through this item, I want to do Troy on another item, so he is not here all afternoon.

Mr. Mickens: I just want to complement Jake and their staff for the program they are wanting to implement. I think it is a program – they are asking for seventy-five thousand dollars (\$75,000.00). I have sat here for many, many years and I have never heard anybody question any of these grants before and going into details on them, that have basically have been rubber stamped. I think Jake did a great job of explaining what it is going to be and if it is a national program, I think it is there and I think that they are looking at that program to be

able to get this off the ground. Anyway, I just want to complement these people, thank you.

Chair Furfaro: Glenn, I do want to tell you that we have a new body here, we do want to know about money that is coming in and so forth. I do have a rubber stamp down in my office, I will share it with you, you stamp it and it says, "unbelievable." Not to ask questions is unbelievable and I will tell you that it is a true story. I will share the stamp with you. I sent it back often to the Administration, unbelievable.

Mr. Mickens: I never seen that before.

Chair Furfaro: Anyone wants to speak on this item?

Ms. Yukimura: I just want to know if any procurement is going to be in this program?

Mr. Delaplane: I actually do not know that. We are still in the planning phases in all this, and if there is procurement that is involved, then we will certainly go through the process.

Ms. Yukimura: Okay. We have your commitment to do procurement properly?

Mr. Delaplane: As we always do, yes. Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Chang: I am going to support this. I think it is great, I do. We have been talking in the past week or two (2) about kids and drug treatment center and we are talking about the big problems of drugs. We recognize this recently and I will tell you yesterday in the news, when you watched the news and you look at channel two (2), channel nine (9) the Statewide news, one of the big things when they go to Kaua'i and show Kaua'i, they showed that we apprehended six (6) drug dealers with records. I think that was just positively received. I think the people of Kaua'i went hallelujah, we are doing our job with the operation with the 204 operators, the sting operation, and then we see that in the paper and I think the community is being very... I think they are feeling a little bit more safe in this respective communities. I never knew Hanapēpē Stadium or tennis courts and we are talking about the roller skating ring there, I mean we need safety for the kids and no temptation or place to gather, that was a great thing that Ed Justice and the community was doing. I do not know anything about Black Pot or Hanamā'ulu Beach Park or the back of Kekaha – right by the neighborhood center,

I do not know these things and when we support efforts and we want to get the best and brightest to help us, if we do not do nothing, we have been talking for weeks about our kids and drug facilities, I just think that this is great and I am going to support it. Thank you very much.

Mr. Bynum: I appreciate the presentation this morning and we received this in our agenda a week ago and so I was able to go online and look at the Drug Market Initiative efforts that has happened around the Country. I know for people of Kaua'i, we hear this, "they are dealing drugs right there every day and we see it," and there is a frustration from the community. I even went with a constituent and watched it happening and with the constituent on the phone saying, "it is happening right now," and it seems on one (1) level that this would be easy but it is not. I really applaud this initiative and we got the information in advance and we were able to look at it and I am in full support.

Mr. Kuali'i: I too applaud this creative approach and emulating successful examples elsewhere. I like what they said about family involvement and I do think too that this will serve the community in many different ways and I think in one (1) way to recognize is that addicts and first time addicts and when they are struggling through what they are struggling through and they are stealing from their family and then stealing from the community by actually turning around and selling the drugs that they are using just to make money so they can buy drugs to use. To me this would be like the Drug Court Program is successful and it is sort of the back end of the legal judicial process. This would be something on the front end that has not been tried and I think the potential for helping those first time addicts and giving them options. I think this is great and I am happy to support it.

Ms. Yukimura: I think this has the potential to address a serious community problem and as I said before earlier in the discussion, I think it can really be helpful. I do appreciate the work that the Prosecuting Attorney's Office has done on this. I think it might be more effective on other approaches in terms of helping the individuals involved, and so I am happy to vote for this.

The motion to approve C 2012-374 was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Chang, Kuali'i, Nakamura, Rapozo,	
	Yukimura, Furfaro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Jake, please note that I am thinking of deferring the P.O.H.A.K.U. piece so we can all digest the answers and then we have one (1) more grant item for you later today.

C 2012-376 Communication (08/24/2012) from the Environmental Services Management Engineer, requesting Council approval to accept a one-year trial of the "Catalog Choice for Communities" program valued at \$3,500.00 to assist Kaua'i County residents with eliminating unwanted mailings through a web-based opt-out system, free of charge with no obligation to renew for a second year: Mr. Bynum moved to approve C 2012-376, seconded by Mr. Chang.

Chair Furfaro: Troy, really quick question. This is driven by Solid Waste to get rid of the rubbish that comes in the mail – is it the mail to the County, the County as a body, the community? Tell us how this thing is supposed to work.

TROY TANIGAWA, Environmental Services Management Engineer: This is a program that is meant to connect individuals, residents, and anyone who receives junk mail directly to the direct marketers that are sources for this junk mail. It is a source reduction method and it is called out as the first tier in our Integrated Waste Management Plan.

Chair Furfaro: And it is web base?

Mr. Tanigawa: It is web base. It is actually going to be a County branded website and there is going to be a link on the County's website to this County branded website.

Chair Furfaro: When you say the value that is the purchase price value of thirty-five hundred?

Mr. Tanigawa: That is the value of this type of subscription.

Chair Furfaro: I applaud you, step one (1) here. Any questions?

Ms. Yukimura: It is normally thirty-five hundred and that is what is going to cost the County?

Mr. Tanigawa: What information we have is...

Ms. Yukimura: Oh, it is free. It is one (1) year free?

Mr. Tanigawa: One (1) free year trial subscription. If the County chooses to continue with this program, that is what the amount would be to continue it for another year.

Ms. Yukimura: Okay, through it, people will be able to tell the source of the junk mail to stop, basically?

Mr. Tanigawa: Yes. In effect, that is what we are wanting to do.

Ms. Yukimura: And thereby reduce the amount that is going into the landfill because it usually comes from your mail box and it goes to your trash – waste basket, right, and then it goes into the landfill?

Mr. Tanigawa: One (1) less piece of junk mail to have to recycle.

Ms. Yukimura: And as you mention it is the top tier of the reduce, reuse, recycle.

Mr. Tanigawa: Correct.

Ms. Yukimura: It reduces a source of trash?

Mr. Tanigawa: Yes.

Ms. Yukimura: Okay, sounds excellent.

Chair Furfaro: That is why I reference the amount being the value, it is kokua the first year, the kala comes next, and how long is that term?

Mr. Tanigawa: That would be for another subscription for that amount.

Chair Furfaro: With fifty percent discount, we can get out of it after year two (2), right?

Mr. Tanigawa: No obligation to continue?

Chair Furfaro: Very good.

Ms. Yukimura: And we can also see potentially how many hits we get on it and how much trash we stop and therefore estimate the amount we are saving from it not going into the landfill.

Mr. Tanigawa: Yes, there is a feedback mechanism with this subscription. It tracks data as users utilize the website and it correlates that to not only savings, how much waste is prevented but it also gives feedback on savings, for example, the amount of trees – environmental benefits, greenhouse gases avoided, amount of trees saved, and water saved.

Ms. Yukimura: Hopefully it will show that the serve may pay for itself and save on top of that.

Mr. Tanigawa: Part of the information we got was the cost benefit analysis and that is basically the selling point of this tool that this company provides.

Ms. Yukimura: Very good, thank you.

Mr. Rapozo: I am quite familiar, I was shown a presentation by Cynthia a while back and in fact I asked her to share it with Larry. Being that it is provided free for the first year, which is a good thing, I am surprise Councilmember Yukimura did not ask a question about procurement. What happens next year? Does this become a procurement issue? Because we are getting a service, somebody is providing a service that is going to tie into a potentially future expenditure. How does that effect the procurement? And in fact, our private businesses out there able to... and this maybe not a question for you but are private businesses out there able to come to the County and give you a free year trial with an option to renew, what happens with the procurement issue?

Mr. Tanigawa: I believe there is a procurement issue and this is something that we will have address, hopefully before that point in time when the service ends if you want to continue it.

Mr. Rapozo: Not hopefully, it has to get addressed. I am concerned about the issue as it stands today. Approving this today, we are allowing a company to do business with the County, granted it is free – that is just the concern I have.

Mr. Tanigawa: I believe there will be procurement that has to be addressed.

Mr. Rapozo: For this one?

Mr. Tanigawa: For this particular type of service.

Mr. Rapozo: For this, what we are approving today is what I am asking?

Chair Furfaro: This is what he is saying, "it is not free." It is two (2) years, and you pay half the bill and get a free year, and you have half a year.

Mr. Tanigawa: No, no...

Chair Furfaro: It is not free. If you only wanted it for one (1) year, it is not free for one (1) year. It is free for one (1) year, conditional that you procured year two (2).

Mr. Tanigawa: Well this is a one (1) year subscription. This is a one (1) year free... if we choose not to continue it after the first year, there is no obligations to continue.

Chair Furfaro: You are sure?

Mr. Tanigawa: Yes.

Chair Furfaro: Absolutely?

Mr. Tanigawa: Yes.

Chair Furfaro: Then, you have answered Mr. Rapozo's question.

Mr. Rapozo: No, he has not answered my question.

Chair Furfaro: Yes, he has.

Mr. Rapozo: No, he has not. My question is if a vender provides a free service to the County, it does not require procurement? If a vender requires a program or a service to this County and it does not cost anything, are we exempt for procurement? And again, you are not the right man to ask but I am just saying... I just want to get that answered because this is value, this is... we are getting a free service from a company hoping that we will continue. Obviously, that is what they are doing... here we give you the first year free, and if you want to continue, it is your choice – no obligation, you can back out. But is that exempt from the procurement code, that is the question, because I love that too... I have services I could offer the County and give you one (1) year free, if we have an opportunity to be in your business. That is part of the question and maybe it is even for Al or Wally, or the Procurement Director.

ALFRED B. CASTILLO, JR., County Attorney: Council Chair, may I address the Council?

Chair Furfaro: Yes, but I want to make sure that when you address the item, this Council accepts gifts through exactly this process all the time. The first question was, do you get the free based on you paying in year two (2) and he answered the question.

Mr. Castillo: Yes, he did and...

Chair Furfaro: But the second question Mr. Rapozo has is by the Council accepting this, is it then eliminated from procurement?

Mr. Castillo: It is pretty unfair right now for all of these legal questions to be thrown at Mr. Tanigawa. We will be able to answer the question once I have looked at how to program what is presented to the... how the program is presented and if there is a procurement problem or concern now, then we will address it. If there will be a procurement concern, we will address it then also and we can have that information for the Council as soon as I have done the proper research but to bombard Mr. Tanigawa now, here at this point in time, it is really unfair to him because he is not the legal analyst...

Chair Furfaro: Let me share something with you... this is the exact reason why I ordered the "unbelievable stamp."

Mr. Castillo: Yes.

Chair Furfaro: Department Heads need to come to this County Council anticipating the questions about procedures, procurement, policies, standards, parameters – that is why they are Department Heads. This is not a bombardment, this is a pretty straight forward question. There needs to be that understanding that this body reserves the right to ask the questions and we also expect a certain understanding about the governance of the way this County does business.

Mr. Rapozo: Al, I think you heard me ask the question by saying I do not know if you are the right person to ask.

Mr. Castillo: Yes, and you did.

Mr. Rapozo: I did not bombard him. If he is not the right person to ask, he can say, "I am not the right person to ask." Basically what this is, we are getting a free year of subscription and I am asking... that is the former question to you or the budget team or to answers it is – is does the fact that a service of product is the cost is waived, does it exclude it from the procurement process? That would be the question.

Mr. Castillo: Councilmember Rapozo, that is quite a valid question and as soon as you brought it up, I understood the concerns and parameters of your concerns. Thank you.

Chair Furfaro: Is my statement a valid statement too?

Mr. Castillo: Absolutely, you are the Chair.

Mr. Bynum: What I hear you saying, Al, is a good question and you will look into that question prior to us entering into this subscription but it does not preclude us from voting on this today?

Mr. Castillo: Yes.

Mr. Bynum: Is that... we can vote on this today?

Mr. Castillo: Yes.

Chair Furfaro: Troy, thank you. I hope you understand that my frustration is about getting information. We should anticipate about procedures and policies, guidelines from the Council whenever we appear in front of the Council and we will take it from there.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Chang: I just wanted to mention this concept was brought up to me by a friend of mine, Cynthia Wallis because people on a personal level have an opportunity to stop all the trash. I have seen the presentation, I am not sure if she still has it. Councilmember Rapozo also saw that and I did have a discussion with Councilmember Bynum because in our zero waste quest to cut the waste stream down seventy percent and 2013 or what have you, my concept is that if it does not even get on the island, we do not have to deal with it. That is what this whole concept is all about...

Chair Furfaro: You understand my concept?

Mr. Chang: Yes. So, I was just letting you know if you do want that on an agenda just to see the presentation, I would be happy to see if I can get that set up and if we do decide that this is a really good thing – this might be something that we can pass on to the other Counties and businesses.

Chair Furfaro: That guideline is already in there, their plan.

Mr. Kualii: In light of the County Attorney coming forward and not answering the question about the procurement and wanting a little more time, I do not think it is a rush. I would like to see us wait and get an answer before we even prematurely enter into something – that, yes, it is free, and then the procurement for the second year would have to begin before the first year. I just

think if we get that answer first, it would make more sense. I would like to see us defer this today.

Chair Furfaro: I understand your point but I am prepared to vote on it because I at least expect a follow up on this question.

Mr. Rapozo: I just want to say this program is a good program and like I explained to Mr. Dill, I would support the funding of the program – the funding. In other words the County would pay for it. In other words, the County would have gone out and did the proper procurement and I would support the funding because it is... it does two (2) things. Number one (1), it reduces paper, rubbish here, it stops it before it comes. Number two (2), it is a huge deter of identity on Kaua'i and it is free. The additional products that, the added products that the website puts in – it is a wonderful product that I have problem supporting but I am just concerned that the procurement issues are applied to certain situations. I am not going to support that. I am going to support a deferral until we get the word back from the County Attorney's Office because... and let me just give you a personal experience, prior to me being on the Council, I had approach the County about a service that I had to offer in my business. It was free to the County. I was specifically told that even it is free, we have to go out to bid. I do not know how you do that but that is what I was told. Okay, fine. They never did, I never got the business. That is cool. In the last few months, a lot of the procurement issues have come up and we have been forced or told that you have to go through procurement. I do not see this being any different. I would ask that we consider deferring this for two (2) weeks, I do not think it is a rush. Two (2) more weeks of junk mail coming to Kaua'i is not going to really impact the closure of the landfill, so I would ask for the deferral.

Chair Furfaro: I do want to say that... I want Larry Dill to hear this in particular, the comments about knowing is good for the entire Division Heads – seventeen (17) Division Heads. They should anticipate some... Larry, you used to work for me, you know exactly where I am coming from. We are going to sell an idea, we have to be able to have the answers. As Troy said, there is no obligation after year one (1), so than there is not any procurement issues. It is not as I first proposed, you go two (2) years and only in the second year, you pay. I will move forward on this and have faith that you will give us the answers we need.

Mr. Rapozo moved to defer C 2012-376, seconded by Mr. Kuali'i.

The motion to defer C 2012-376 was then put, and carried by the following vote:

FOR DEFERRAL:	Bynum, Chang, Kuali'i, Nakamura, Rapozo	TOTAL – 5,
AGAINST DEFERRAL:	Yukimura, Furfaro	TOTAL – 2,
EXCUSED & NOT VOTING:	None	TOTAL – 0,

RECUSED & NOT VOTING: None

TOTAL – 0.

Chair Furfaro: Mr. Dill, I want to make sure you understand our predicament here. I think you can be sure you can share with others, you have communication 377 coming up to us, you have communication 378 coming up to us which were not deferred, and we are looking for answers from the Chief of the Roads Division. This will happen somewhere after 2:30 today. I also honored a deferral from Waste Water on that particular issue but the communication 379 from Environmental Services, although Allison is gone, we have voted on this item in the past, so I would like to take it after the Roads Division. I think there is enough familiarity that we would not have to defer it.

There being no objections, the Council recessed at 12:43 p.m.

The Council reconvened at 2:28 p.m., and proceeded as follows:

Chair Furfaro: Can I have a personal moment of privilege if it is okay with you? Thank you. When Department Heads come to the microphone to talk to us about a project, we of the last two (2) years have been trying to raise the bar on what we expect in the way of information, anticipating Q&A, and so forth. It was kind of awkward for the County Attorney to come up and interject because quite frankly if anybody should have interjected about procurement, it should have been Purchasing Department, that was the question. The reality is, we have been raising the bar and we are also part of conveying what we expect as a standard for the Council. For example, if we have somebody who is doing a lease on a piece of equipment for the landfill or something like that and required a special type of wheel, I would not expect the Procurement Officer to explain to us the reason we need that type of wheel. That they understand the procurement process includes the specifics and specifications of what we need. The same as... when we go forward on signage at Lydgate Ponds and so forth, the Department Head should be explaining to us the kinds of selections made for procurement and what will wear or work best. We should have that kind of standards set. It is all a part of raising the bar and I think over the last two (2) years this Council has continually communicated our need to have some standards followed. I am going to be asking to defer two (2) items today. One (1) of those items is at the request of Mr. Dill and with our environmental issues with Waste Water and also another deferral, I will be asking for is the Police Department on the helicopters. Our standard, I cannot find us receiving the information that we expected on Monday to come to us at 11:30 this morning. It is just not expected and those are the kinds of standards I am sharing with you, so I had to call the Police Department and say, "we had an expectation and we have all had this discussion before, at least give us forty-eight (48) hours to read material and your findings." It is along the same lines for all procurement. I know Al meant well by injecting but the reality if we got questions about contract, specifications, and standards – if the Department Head is not

prepared to do it, we have someone like Ernie Barreira that needs to make his time available. Quite frankly, we are at a very strong development point with our new Engineer, Larry Dill, with Lyle, with Ernie Barreira in Purchasing and Mr. Suga, if you have not met him yet, the kind of attention to detail he is giving to our CIP plan is long overdue. We need to be part of raising the bar. The Administrative people that come over need to be prepared to understand the scope of our questions especially as it comes to contract specifics, purchasing, and so forth. They just cannot fall back while that contract is being reviewed by legal, that contract is being reviewed by procurement. I want to thank you folks for letting me have my comments in the way of a personal privilege but I think we are making progress.

C 2012-364 Communication (08/28/2012) from Council Vice Chair Yukimura and Councilmember Nakamura, requesting agenda time to discuss and approve a list of community people to be recommended to and appointed by the Mayor to serve on a Mayor's Advisory Committee for a Drug Prevention Grant Pilot Project administered by the Life's Choices Kaua'i Office.

Chair Furfaro: Before we go any further, I had them circulate the recommended candidates from the previous meeting and copy the top of the Council Meeting on page thirty-four (34) starting with my comments and subsequently, I want to compliment Councilmember Nakamura with their two (2) recommendations with including a high school senior who is here today, as well as Councilmember Kuali'i who recommended two (2) individuals – Brenda Jose and (inaudible) and the student that I mentioned earlier, Mr. Lawson Fernandez. On that, I would like to give the ladies a minute to comment both Councilmember Yukimura and Councilmember Nakamura before I ask Lawson to come forward.

Ms. Yukimura: Our main goal was to get good and qualified people to the Mayor for his appointment and selection and it looks like we have a good list here. Thank you everyone who helped to put this together. I would love to hear from Lawson and then I hope we can vote on it and get it to the Mayor.

Ms. Nakamura: I thought about Lawson because Councilmember Rapozo had suggested a student from one (1) of our schools and he just this afternoon said it was okay for his name to be on the list. Thank you, Lawson.

There being no objections, the rules were suspended.

LAWSON FERNANDEZ: I am a senior at Kapa'a High School. I am involved with Student Council. I am the Hawai'i State Student Rep for Kapa'a High School, so I represent the Kapa'a Complex Schools at meetings once a month on O'ahu with the other representatives from each school. I am honored that I was chosen and excited to represent the youth, and I am very honored. I will do my best, thank you.

Ms. Yukimura: Welcome, Lawson. Congratulations for your leadership position as a representative to the State Student Council Organization. Among your many activities is your senior project which is related to the County Council, can you tell us a little bit about that?

Mr. Fernandez: My senior projects, I am job shadowing Councilmember Nakamura. My senior project focuses on politics and the County Council. I am here to observe and learn your legislative process because one (1) day I hope to become the President of the United States.

Ms. Yukimura: Very good, we want our young people to reach high and you are definitely reaching high, that is great. Tell us what your senior project requires.

Mr. Fernandez: The senior project requires fifteen (15) hours with your mentor and it requires a senior project paper on a specific issue within the field with what your job shadowing, it requires a presentation in front of a panel. The panel is made up of four (4) community members, staff members, and teachers from your school.

Ms. Yukimura: That is wonderful. I really commend Kapa'a High School and Waimea as well which is requiring senior projects and sounds like you are going to be learning a lot. Especially with your mentor with Councilmember Nakamura.

Mr. Fernandez: I am very excited.

Ms. Yukimura: I bet you are.

Ms. Nakamura: Lawson, do you want to tell them about the topic of your senior paper which is very interesting topic.

Mr. Fernandez: My topic for my senior research paper which is an (inaudible) paper about (inaudible) estates and agriculturally zoned lands.

Ms. Yukimura: Maybe after that you can advise the Planning Department, they need some advice.

Chair Furfaro: Before you step up to President, maybe we can get you in the Planning Department.

Mr. Fernandez: Got to work my way up slowly.

Mr. Chang: On your quest to become President of the United States, have you decided what college you might be looking at and what you might be majoring in?

Mr. Fernandez: I am looking at colleges in Oregon and maybe Portland State University and maybe I can go to another college in Washington D.C. later but I want to major in political science and maybe journalism and economics.

Mr. Rapozo: How many hours do you need for your fifteen (15) hours?

Mr. Fernandez: Fifteen (15) hours.

Mr. Rapozo: So, this counts as long as you are in the same room?

Mr. Fernandez: Yes.

Mr. Rapozo: How many hours so far?

Mr. Fernandez: Maybe two (2).

Mr. Rapozo: So, you got about twelve (12) more?

Mr. Fernandez: Yes.

Mr. Rapozo: We might get that today. Interesting, your topic of your paper, I am just curious... real brief overview or summary of what your thoughts are on that?

Mr. Fernandez: I am arguing that... my thesis for my paper is that land zoned for agricultural purposes should create a product or service that helps Kaua'i create sustainability.

Mr. Rapozo: Like food?

Mr. Fernandez: Yes, food and...

Mr. Rapozo: Farm?

Mr. Fernandez: Farming.

Mr. Rapozo: Well if you want to speak to somebody that has been real active – an advocate of that, I would be more than happy to spend... I do not know if you can use my hours and count it towards her... you can call me, Councilmember Nakamura, I do not think they will know. But I will be more than happy to sit down with you and share what little that I know. Good luck.

Chair Furfaro: I would like to say also if you need a session about an overview on the rules – our rules, procedural – I will be glad to offer some time. I would also encourage you when you get some briefings with Mr. Rapozo, you might want to include someone from the Planning Department that can give an update on our submittal on Important Ag Lands.

Mr. Kualii: Thank you for stepping forward and being willing to serve and for being such a fine example, driven, well spoken young person. I cannot imagine – how old are you?

Mr. Fernandez: I am seventeen (17).

Mr. Kualii: I have never said the words, “my thesis for my paper,” when I was seventeen (17). I just wanted to make sure you knew that... our Council is putting names forward to the Mayor and ultimately it is the Mayor’s selection but he would be making a big mistake if he did not pick you.

Mr. Fernandez: Thank you.

Mr. Kualii: Thank you again for your service.

Chair Furfaro: We are all here to support you in this adventure. Is there anyone in the public that would like to testify on this item?

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Councilmember Nakamura and Yukimura, I believe you want us to vote on this list that we are going to submit...

Upon motion duly made by Mr. Bynum, seconded by Mr. Kualii, and unanimously carried, C 2012-364 was approved.

C 2012-336 Communication (07/20/2012) from the Prosecuting Attorney, requesting Council approval to apply, receive and expend State of Hawai‘i, Office of Youth Services funds for the Keiki P.O.H.A.K.U. Diversion Program in the amount of \$35,000.00, and approval to indemnify the State of Hawai‘i, Office of Youth

Services for the term commencing August 15, 2012: Mr. Rapozo moved to approve C 2012-336, seconded by Mr. Kualii.

Ms. Yukimura: Mr. Chair, I would like to ask for a motion to defer and as much as... by your rule of thumb, we received these answers to our questions yesterday afternoon. I was not able to look at them until this morning. I cannot tell whether all the questions have been answered but we need some time to look at them.

Chair Furfaro: That has been my practice and I have not been able to review them all. I can support deferring it for a week and put it on our first order of business next week.

Ms. Yukimura: We have the young people from K.C.C.

Chair Furfaro: Or, the second item next week. Members, you heard from Vice Chair Yukimura on her request. Is there a second to that?

Ms. Yukimura: I have not made a motion, wanting to allow for discussion about the matter before we have a motion to defer.

Chair Furfaro: I think that is kind of why I did it the way I did it because I had a second, there would be no discussion.

Mr. Chang: For the purposes on supporting a deferral because the members did not have a chance to read the deferral, I can go with that. I would like to say in speaking with members of the Mayor's Crime Task Force, the business heads and those that have been involved for nearly two (2) years or upwards to two (2) years – the people I have talked to and I will not quote it but I have been told that it has been unanimous. We need to do something and we need to get this thing rolling. It is just based on our youth, drug education, and everything to do with family, domestic violence, and I just want to repeat I was thrilled when I saw the news – the local news to let people know that we caught those who have been breaking the law and those that have been a big scare in our community. I think it was a big relief for many residential areas with kids, family, and kupuna knowing that we are starting the process and getting six (6) people off the street. Again, I can support the fact the everybody needs to catch up or take a look at the answers but I will say in speaking to members who have approached me and then I have gone out to them to find out a little bit more about this task force and the process. Especially the business heads, Administration, and Police Department – it is a well rounded Committee that they are all what I refer to in unanimous decision about let us make it happen and move forward. I think the longer we wait to get things implemented, the worse it can get. I am in favor however, I will respect the wishes

of some of our Councilmembers for deferral so we can all take a look at that one more time.

Mr. Rapozo: I just want to echo Councilmember Chang comments regarding the Mayor's Task Force. I spoke with Ed Justice at the West Kaua'i Business Forum who sits on that Committee, he maybe even the Chair but I am not sure. He approached me and talked about the unanimous support of the Mayor's Anti-Drug Task Force, including our own Anti-Drug Coordinator, Theresa Koki that in fact this program was worthy of the funding. I am not sure who sits on that Committee, if I can have someone from the Prosecutor's Office come up just so we can discuss the discussion from the Mayors... because that was one (1) of the concerns or reasons for the deferral was... because it had not gone through that round. That has been since completed and again I was very happy when I spoke to Mr. Justice this week who had expressed his satisfaction. Can we have someone come up? I am not sure who it would be.

There being no objections, the rules were suspended.

Chair Furfaro: One (1) part of the question was very clear, about who might make up that Mayor's Task Force – Criminal Task Force.

SHAYLENE ISERI-CARVALHO, Prosecuting Attorney: There are two (2) Committee's that we are talking about here. There is one (1) that is the Mayor's Anti-Crime Task Force Committee which is made up of various members from hotel industries, in fact, do you have the names of them?

JAKE DELAPLANE, First Deputy Prosecuting Attorney: I do not have all the names in front of me.

Ms. Iseri-Carvalho: Or, you can just name the names of the people.

Mr. Delaplane: We have hotel industry people, Chamber of Commerce people, people in the Administration, Police Department, Prosecutor's, and others. It is a big task force, we have about twenty (20) people. That task force meets monthly, I believe the first Tuesday of every month. We have been discussing all the diversions programs, so you have heard me talk about the Drug Market Initiative this morning, we have discussed that, the P.O.H.A.K.U. Program, the Keiki P.O.H.A.K.U. Program, and we have gotten a lot of input from them. We met last week and there was unanimous support for Keiki P.O.H.A.K.U. Program. I had numerous emails which is not included with the answers but I will submitting it with to Council the emails, and letters for support from members of that task force.

There is another Committee that we talked about at last meeting. Laverne Bishop came up and talked a little bit about our Juvenile Enforcement Committee that meets and that also reviews grant funding under the formula grant, so certain amounts are dedicated to Kaua'i for juvenile enforcement and as of our last meeting when we were here talking about Keiki P.O.H.A.K.U., that Committee had not considered and reviewed the Keiki P.O.H.A.K.U. Program; however, the Committee had met on September 12th of this month and unanimously allocating all the grant funding that was requested under the grant to the Keiki P.O.H.A.K.U. Program. Again that vote was unanimously at that September 12th meeting. We have had those conversations, I know there were concerns from some Councilmembers at the last meeting that we have not had the conversation before and that the Committee had not voted to approve the funding but again, on September 12th, that funding was approved unanimously by that Committee.

Ms. Iseri-Carvalho: I just returned from O'ahu this morning and we had our quarterly meeting for me sitting as a member for the Juvenile State Advisory Council Committee. It is made up of Judges, probation officers, HYCF representatives, a multitude of different types of people, retired prosecutor's, retired Police Department officials, and again the function of that and the mission of that is to try to ensure that juveniles are treated appropriately and at the very last resort the juveniles are incarcerated. The statistics were quite alarming, I talked to David Hip who is the Executive Director of HYCF and he has seventy-eight (78) kids who are in HYCF right now and they only have forty-eight (48) beds, they are doubling up. There is definitely a concern about getting people lock up. They just came back from meeting with Senator Daniel Inouye and raised this issue and he is very supportive of Diversionary Programs. We also had this discussed at this meeting on the Keiki P.O.H.A.K.U. because the focus of this State Advisory Council which are made up all appointed members is to ensure that there are more Diversionary Programs for juveniles and more services offered for juveniles. One (1) of the concerns that was raised by Senator Inouye was the fact that right now without Diversionary Programs, a lot of people are being eliminated. Juveniles with criminal records who could otherwise be diverted are not able to qualify to get into the military and so their options if they do not go to college are quite limited because the military used to always be an option. We have had previously and they just changed the rules for entrance into the military, previously people could... juveniles or early teens could get into the military without a diploma and they could obtain their GED while they were in the military. Well they have eliminated that opportunity and so at this point, if you do not have a GED or diploma, you are not able to enter into military. Senator Inouye has also expressed concerns because of the decrease and the amount of potential people that would like to go into the military, however, we are not aware that their options were going to be turned off because they did not have the availability of a Diversion Program and they are stuck with their juvenile record because juvenile records are considered when you apply for the military and the types of offenses they get adjudicated on even though

it is confidential, the military, it is not. These kinds of programs really are supportive across the Country by not only the Senator's, Legislators, and the rest of the community but we really are limiting the options for our juveniles given the circumstances that have changed especially when there is thousands of people that used to apply to get into the military.

Mr. Rapozo: The Committee that met on September 12th?

Mr. Delaplane: Yes.

Mr. Rapozo: Who was on the Committee?

Mr. Delaplane: We have a list...

Ms. Iseri-Carvalho: The persons that were present were Captain Dan Ford.

Mr. Rapozo: KPD.

Ms. Iseri-Carvalho: Mark Ozaki, Lieutenant Gary Saiki, Laverne Bishop, the Recreation Director, Cindy Duarte, Theresa Koki from Life's Choices, the Mayor's Office, Russell (inaudible) from the Attorney General's Office, and then we were present but we did not vote. There was also probation officer, Alexa Thompson.

Mr. Rapozo: You do not vote?

Ms. Iseri-Carvalho: No.

Mr. Rapozo: And it was unanimous vote?

Ms. Iseri-Carvalho: Yes.

Chair Furfaro: What I heard so far is although Mr. Chang did not indicated where his vote is going to go, he is willing to entertain a second on the motion to defer. What I would like to do is reconfirm that, Mr. Chang, you are willing to support a second so we can vote on the deferral. If it does not pass, we will then go right into the item.

Mr. Chang: I thought it was second, but I will second the motion.

Mr. Rapozo: The motion to defer was not made.

Chair Furfaro: No, the motion to defer was Vice Chair Yukimura.

Mr. Rapozo: No, I made the motion to approve and that is what is on the floor right now.

Chair Furfaro: And she is asking...

Ms. Yukimura: I am willing... I said I wanted to make the motion to defer but I wanted to allow some discussion. I have a couple questions here, if I may ask first.

Ms. Yukimura: Jake, you said that the Mayor's Anti-Crime... or maybe it was the Juvenile State Advisory Committee that approved all funding to Keiki P.O.H.A.K.U.?

Ms. Iseri-Carvalho: No. That is a different. The Juvenile State Advisory Committee is a funding... is a State Governor's Committee, it does not approve the funding, it allows the funding from...

Ms. Yukimura: Okay, so it is a JJEC... what is it called?

Ms. Iseri-Carvalho: The JJEC.

Ms. Yukimura: Okay, which stands for?

Ms. Iseri-Carvalho: KJCEC.

Ms. Yukimura: Kaua'i Juvenile Justice Enforcement Committee, is that what it stands for?

Ms. Iser-Carvalho: Kaua'i Juvenile Coalition Enforcement Committee.

Ms. Yukimura: And so they approve all funding to Keiki P.O.H.A.K.U.?

Mr. Delaplane: Yes.

Ms. Yukimura: So, does that mean that there is no more funding for Teen Court?

Mr. Delaplane: No, there is funding for Teen Court. The funding for Teen Court goes through that Committee as well. How this program... I know that was one (1) of the questions that came from Council – how would this program

would work in conjunction with Teen Court and so Teen Court would only add another option to the spectrum of options that we have.

Ms. Yukimura: How much money is going to Teen Court?

Mr. Delaplane: I do not have that in front of me.

Ms. Iseri-Carvalho: We do not have an formula funding going to Teen Court from the FY 2009 funds. They can apply for State grant funding.

Ms. Yukimura: There is no formula money going to Teen Court?

Ms. Iseri-Carvalho: Teen Court has had over ten (10) years of funding and this year the Committee voted to have the money appropriated for the Keiki P.O.H.A.K.U. Program.

Ms. Yukimura: So that means instead of Teen Court, Keiki P.O.H.A.K.U. is getting it and you are not supporting a program that is evidenced based and well established, has an amazing...

Ms. Iseri-Carvalho: I totally support Teen Court.

Ms. Yukimura: But you are not giving money to that?

Ms. Iseri-Carvalho: It is not "we are not giving money." There is a Committee that votes. We run the meeting, they got ten (10) or fifteen (15) members.

Ms. Yukimura: And what was the reason for not giving it?

Ms. Iseri-Carvalho: What was the reason for not giving the money? You should ask the Committee members because they all wanted to give the money...

Ms. Yukimura: Okay then I think, we would want to ask the Committee members to come forward and testify to why they made that decision.

Ms. Iseri-Carvalho: That would be your prerogative.

Ms. Yukimura: By approving this means that it goes all to Keiki P.O.H.A.K.U. and does not go to Teen Court. I think there is a major policy question here.

Ms. Iseri-Carvalho: It is the Committee's decision on what they want to use the money for. There have been other programs that have solicited funding.

Ms. Yukimura: It is actually the Prosecuting Attorney's Office decision based on information from the Coalition, right?

Ms. Iseri-Carvalho: That is not correct at all.

Ms. Yukimura: Okay, thank you.

Ms. Iseri-Carvalho: The Prosecutor does not vote on any of the funding that comes through that Committee. It is a Committee that set up – that is required in order to get funding from OYS.

Ms. Yukimura: Well, I have a lot of questions to ask a group that is determining that Teen Court is not to be funded.

Ms. Iseri-Carvalho: That is not accurate Councilmember Yukimura to say that these members do not support Teen Court. There was only so much funding that was available. Teen Court had made, I believe for the past ten (10) years, they were the only program that applied for funding. There were discussions among the members that they wanted to support a program that thought outside of the box, and that thought about something different. There is not a single program in the County that addresses that group kids and these are the kids that are not first time offenders. Teen Court is an excellent program, there are multiple other funding aspects and Teen Court gets funding from the Judiciary, they also get funding from other resources. I am not familiar with their funding aspect except for the fact that we learned that they were also getting money from the Judiciary. We do not get funding from the Judiciary.

Ms. Yukimura: I do not know who is delivering what services but I think it is incumbent on the Council to understand the situation because if it is going to hurt Teen Court, I think... I all for Diversion Programs and we should add to them but we should not do one (1) in substitute of a program that has been very good and well approved.

Ms. Iseri-Carvalho: I totally agree. I think Teen Court... like I said, we are not taking any of the referrals from Teen Court. Teen Court is a first time offender program.

Ms. Yukimura: How many referrals have you made to Teen Court in the last three (3) to six (6) months?

Ms. Iseri-Carvalho: We have not made any referrals since April and it because we have been advised by OYS that there is a problem with a procurement issue regarding Teen Court. We have received a written email regarding that.

Ms. Yukimura: And so...

Chair Furfaro: Before you go any further, members, I want to make sure you are very clear about the rules here. Mr. Chang, if you are going to second a motion to defer, that motion has the super power. It overrides Mr. Rapozo's motion to approve. But what I am saying is, we are in limbo here which where we are going, if you are going to second that motion, then we will vote on it. If it loses, we will continue on with this discussion. That is the procedure and if you want to recess to interpret the rules.

Mr. Chang: I know the rules.

Ms. Yukimura: Are we back in session?

Chair Furfaro: We never left session. I reserve the right to clarify the rules of which I just did. I just wanted to point that out to all the members so that you understand, if there is a motion to defer and it is second, that supersedes any other motion.

Ms. Yukimura: Chair, I thought the rules were suspended so they could speak from here but I am just questioning whether we are back to do Council business.

Chair Furfaro: And I am just asking you, I reserve the right to run this meeting the way I get the interpretation and I just wanted to clarify that one (1) statement. If he does not choose to – want to do that then we will continue with the conversation.

Ms. Yukimura: I think I have to actually make a motion, Chair?

Chair Furfaro: Oh, you did not make a motion?

Ms. Yukimura: No.

Chair Furfaro: I thought you implied that...

Ms. Yukimura: I did not want to make a motion because I thought it would trigger.

Chair Furfaro: Yes, and I am telling you that that is how it is triggered.

Ms. Yukimura moved to defer C 2012-336.

Mr. Rapozo: Hang on. The meeting is not called back to order, I will call a rule of Point of Order. Mr. Chair, the rules are still suspended, no motion can be made during the suspension of the rules, the meeting has to be called back to order.

Chair Furfaro: I know that. I am the one that calls the meeting back to order.

Mr. Rapozo: Right.

Chair Furfaro: And during this time of clarity, it is also appropriate to let the Prosecutor's Office know what the clarity is on the rules. We are still in session with the rules suspended for dialog.

Mr. Rapozo: I do have a Point of Order on Rule 13(c) which is sticking to the agenda. The Teen Court is not on the agenda. The agenda item is the Keiki P.O.H.A.K.U. Program and thirty-five thousand dollars (\$35,000.00) from the Office of Youth Services. I would ask that we stick to what the agenda reads.

Chair Furfaro: 13(e)?

Mr. Rapozo: 13(c).

Ms. Yukimura: And I believe I am on topic but...

Mr. Rapozo: He can rule on my point.

Chair Furfaro: First of all, 13(c) references all questions and recognitions going through the Chair. And remarks should be confound to the questions on the agenda.

Ms. Yukimura moved to defer C 2012-336, seconded by Mr. Bynum.

Mr. Rapozo: Oh man... Point of Order... you cannot make a motion when the rules are still suspended.

Ms. Yukimura: Point of Order, they...

Chair Furfaro: Let us take a recess.

There being no objections, the Council recessed at 3:05 p.m.

The Council reconvened at 3:20 p.m., and proceeded as follows:

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Everybody is clear? The request to take public discussion and suspend the rules was quoted as being just for a few questions. This meeting is back in order. I first want to tell you in rule 3-A-7 if you are not satisfied with my decision, you can move to appeal with four (4) or plus members. I want to remind you all that questions went over to the Prosecutor's Office and those questions were asked by the body. A number of those questions reflected on Teen Court. That opened the door about Teen Court questions. The responses as I just reviewed came back about Teen Court and I have to tell you one of the things I got out of the narrative and I have only had an opportunity to read it once is, the Keiki P.O.H.A.K.U. Program is pretty much intended to serve the gap group that misses the qualifications for Teen Court and there is where the catalyst comes together. That leads to two (2) questions. If funding is being diverted for the purpose of the Keiki P.O.H.A.K.U. Program and serving the gap group and there is not enough State funds to fund the current level of Teen Court, the gap group would actually get bigger in my opinion. That is only my opinion. That is where we should be discussing this. In reference to Teen Court not being in the question, just by the nature of the responses that we got talking about this net that catches people that drop out of Teen Court, we have to allow that kinds of discussion. When I call the meeting back to order, I want to say that the potential of a motion when we are back in order to defer supersedes any action that deals with an approval and leading upon other discussion. From a review of the rules, I want to say that if there is a motion while we are back in order to defer, it needs a second, there is no discussion and I will call for an immediate vote.

Ms. Yukimura: As I said from the very beginning that I did not want to make a motion to defer until we had some discussion about it. I am willing either to have the motion not have been made or die from a lack of a second, and have a discussion. I do want as I did at the beginning to request a deferral for one (1) week is fine so we can have forty-eight (48) hours or more to read the answers to this, and actually do a little bit more research. That is my intention, not to cut discussion but to defer so that we can ultimately defer in this meeting so that we can have more time to read all the information.

Mr. Kualii'i: I just wanted to state that this Council has spent several hours on this matter and all we are talking about is approving the application receipt and expenditure of this funds – grants. We do not have any say

of who OYS chooses to fund. We are just approving one (1) of our County Departments to go after those funds. For us to try and behave on the other side is not right and to get to this level of involvement over thirty-five thousand dollar approval to apply for, receive, and expend the grant, is almost... it is micromanaging. We do not micromanage all of our Department's, we set policy, we set budget – but to get into how the program is actually delivered and to question the validity of a new program that has not even been tried yet, I think we have kind of gone astray. I am ready to support this. That is all I have to say.

Mr. Bynum: We sent over seventeen (17) questions on August 24 and I received the response in my inbox this morning. Given the context of everything that has happened over here over the last few months – asking questions about this program seems appropriate to me. I have a long history of supporting deferrals. Earlier today I supported a deferral that was a contested vote at the request of a Councilmember and I was prepared to vote on it. But I will speak for myself, I would like a day or two (2) at least to digest what is in this response. That is why I would support a motion to defer.

Chair Furfaro: Okay, are you making a motion to defer because that cuts off?

Mr. Bynum: No.

Chair Furfaro: I just want to get that clear.

Mr. Bynum: I also agree with having discussion.

Mr. Chang: Just for the clarification, just for discussion purposes, I would have liked to have that discussion. I am sorry if I confused everybody with second the deferral but I am going to stick back to the start of what we all came here. We have a Task Force, they meet once a month, they are volunteers and when you got a Task Force of the Mayor's Department, the Administration, the Police Department and more importantly in my opinion – independent business people, hotel, whoever you have on the board and they are unanimously saying let us move forward. There is so much emphasis with the youth and the crime, drugs, and everything else and we need to start somewhere. As it was stated, we are not going to move forward if we keep waiting around. If we do not do anything, nothing happens. I am into – let us be proactive, let the program take its course. I believe I know enough information and the separation between Teen Court and the P.O.H.A.K.U. Program and those that slip through the Courts if you will, let us plug up that hole and get going. I am not going to support the deferral. I will be supporting to fund this program.

Mr. Rapozo: Obviously, I will be supporting the motion to approve. Councilmember Yukimura said that she did not want to stop the debate but when you make a motion to defer, it stops the debate, stops the discussion. To tell the public that you were not interested in that, is really not true. We have just been through a series of debates – West Kaua'i Seniors, Chamber... this body, every candidate always talk about helping the kids, fighting the war on drugs. We have an opportunity here or we had an opportunity here months ago to approve a grant of thirty-five thousand dollars (\$35,000.00) for a Keiki P.O.H.A.K.U. Program which was unanimously supported by an independent Committee, not the Prosecutor's Office. The scrutiny that Mr. Kualii has talked about for this program, actually any program, any grant that has come out of the Office of the Prosecuting Attorney Office has received unprecedented scrutiny by this body. I am frankly getting tired of it because we are holding back an opportunity to help kids. We are holding back an opportunity to fill that puka. Teen Court is a great program – it is. They have access to funds as well. In fact, if we want to provide funds for Teen Court, we can do it in the County. We do not need to do a grant, we do not need to go through all kinds of Federal/State agencies. If we felt it was a great program, we could fund it. My point is that we have an opportunity today... again, this thing has been deferred and deferred and I guarantee you in one (1) week, there will be more questions, criticisms probably another deferral... I am going to support the approval and I hope that I can get two (2) more Councilmembers to support the approval so the Prosecutor's Office can go on their way. Start Keiki P.O.H.A.K.U. so we can start saving our kids. I am tired of this fighting, I am tired of this unnecessary back and forth and holding the kids hostage, I am tired of it. Shake your heads and do what you want but it is pretty evident to me what is going on here. I understand that the responses came late but I thought we got the answers right here. We understand that it went through the Committee, we understand that it was approved unanimously, we understand that it did not affect Teen Court funding, we understand that Teen Court did not apply, we understand all of these things but we are still going to ask more questions. I hope I can get two (2) more votes because I believe this program needs to move forward so that our kids can be helped. I went in the military and when I went to basic training, I would say... forty percent (40%) of the kids in there had criminal background, that was their out and it may have been more than that. Today, a criminal background prevents them from even signing up. We are losing a lot of kids because we cannot help them this is a program that can help them. This is a program that can take a kid on a street who has a criminal record or potential criminal record, route them through this Diversionary Program and get them in the military. Give them a life and future. We are going to sit here and say we want to know a little bit more, fine, that is your prerogative. I am supporting the approval, and I need two (2) more.

Chair Furfaro: Councilmembers, who have not spoken, do you want to speak?

Ms. Nakamura: I have not had a chance to review this information and I would like to urge the Council staff to not put items on the agenda if at the time of posting the information is not available.

Chair Furfaro: You need to clarify that... there are members that come to me that wanted it on the agenda. That is a duty not for the staff that is the duty for me as Chair and I have made myself clear, already today I have deferred an item for the Police Department, I have deferred other items because material comes to us so late.

Ms. Nakamura: Exactly and...

Chair Furfaro: And I just want to say to you, that recommendation had been made when I referenced even today people coming to the meeting without the proper...

Ms. Nakamura: Exactly.

Chair Furfaro: So, we are changing our own standard.

Ms. Nakamura: I guess my recommendation would be not to put the item on the agenda.

Chair Furfaro: I understand, we are changing our standard. The standard that exist right now, Nadine, is something for the entire ten (10) years that I have been on the Council previous Chair's go down to the last minute. We are changing the standard. Good point.

Ms. Nakamura: I think when we did this with the County Attorney's Office to have a higher standard to have information in Executive Session ahead of time, that now it is happening. It has been helpful and that has helped to move the process along. Thank you, Chair, for making that change as well.

Ms. Yukimura: Everything that Councilmember Rapozo's said about teens in the military and all of that, that can happen through Teen Court as well. They are both diversion programs. I support well crafted diversion programs but not at the necessary at the expense of one (1) that is well established and evidence based and has such a good track record. It is also disturbing to me that no referrals have been made for Teen Court for several months which means that, is the Prosecutor's Office holding on these referrals? What is happening to these kids who are coming into the criminal justice system and where are they going if they are not being referred to an existing division program? Are they being held up so that they are going to then be deferred to P.O.H.A.K.U.? What criteria are you

using to send some here and some there? Furthermore, I understand that the Keiki P.O.H.A.K.U. is going to be making referrals to K-PAL which is fine, K-PAL is such a fine program but there were two (2) Police officers on this Committee, they were not exactly neutral – this Committee that recommended approval and how much overtime will be involved and what kind of cost will be involved? There are all these questions that are very important questions for us to understand in terms of money spent on these programs. At least let us look at these answers. The Prosecutor's Office had at least a month, maybe a month in a half to answer these questions and they should have had answers to those questions the time they put this first put this first on the agenda but they took... they give it to us the day before our meeting? Maybe one (1) of you have read it all but I have not and so at least have... I think the Chair is giving great grace to make it one (1) week instead of two (2) weeks into a regular deferral. I think at minimum and I thought Councilmember Rapozo, you told me that you had no problem with being able to read the information that is presented to us, so I thought you would support a deferral. I certainly hope that we defer this matter out of fairness.

Mr. Kualii: Mr. Chair, I just wanted to make it clear that while this packet may look somewhat thick, that there... and there is seventeen (17) questions, so it is a lot of questions even after hours of questioning the Department in person, still these questions. And questions that seem unrelated to the specific nature of a thirty-five thousand dollars (\$35,000.00) grant that they can apply for, receive, and expend. To start talking about what about this other organization that might be applying for it and they are not, it is going too far for me but this documentation includes a few list of sign ins for meetings, a few agendas of meetings, several one (1) sentence answers to half of the question and then the first two (2) questions have four (4) or five (5) sentence answers. I would think that this could be covered and it is all reasonable about what people need and I supposed ultimately extend that courtesy but in week, I really do not want to see more questions and delays because it is getting out of hand.

Mr. Rapozo: In Court when the attorney continues to ask the same question, there is an objection called – ask and answered, I have seen it enough times. I think the question was asked, “why the Teen Court referrals had stopped?” I heard, today was probably the third time here that the Teen Court referrals was stopped because OYS directed the Prosecutor's Office to stop the referrals. I have heard that, I believe three (3) times. I have heard the same answer, I am not sure if it was David Hip of OYS, I am not sure of the gentleman's name but to continue to ask the same questions hoping to get a different answer is a waste of our time. If you do not believe the answer, send a communication to OYS but to continue to ask the question, I think is just a waste of time and that is the answer that we were given, that in fact OYS has some concerns about procurement and the referrals had stop. I am ready to vote.

Mr. Chang: I am just going to refer back to what I said, the first time and the second time. If the Committee is approaching us and we asked questions and we reconfirm and these are the heads of business, police, Administration, and they are asking us and I believe it is unanimously, to move forward and support the program, in respect to them, I am going to support their recommendation.

Mr. Bynum: This is fifty-six (56) pages. We were in candidates forum until late last night. Just during this discussion, I read the first page and Mr. Rapozo talked about the referrals to Teen Court being suspended, this answer seems to be evolving because this written thing says that it has to do with an unsolicited County Attorneys opinion that called into question the authority to engage in the use of all diversion programs. I have never seen that opinion and I heard the County Attorney say he never questioned any program other than the main P.O.H.A.K.U. Program. Now, for the first time today ever I heard about the Office of Youth Services Program questioning about procurement of Teen Court, that is brand new to me. I know this is a really charged atmosphere right now in the County but as I said, I have a long history of supporting deferrals and us... and as requested, I did one (1) today. I am not ready to vote on this.

Chair Furfaro: I do want to say that I too have been approached by people in the business community who have participated in the Adhoc Committee that is dealing with this. They are very much wanting to move this forward to get this activated. I also have been able to talk to some hoteliers who are on the Committee or at least have a representative on the Committee and they are very supportive as well. If there is going to be a motion to defer, I want to let you to know that I would hope it is not for more than one (1) week. I would arrange a Special Council Meeting at 9:00 in the morning with the Committee Meeting's being postponed to 10:30. As Chair, I have to hear everyone. If there are concerns about reviewing and so forth... for two (2) weeks, not acceptable. I have gotten too much testimony for people that I have done business in this community for a long time who are pleased with the approach here, so if the motion is to defer for one (1) week to a Special Council Meeting at 9:00 in the morning, I will support it. If it is for any time more than that, I will not.

Mr. Kualifi: I wanted to make one (1) comment. I do want to say that because of my prior commitment – I will be at the Annual Hawaiian Conference next week and so... that makes me think twice about registering my vote today. I want to vote today.

Ms. Yukimura moved to defer C 2012-336 to Special Council Meeting on October 3, 2012 at 9:00 a.m., seconded by Mr. Bynum, and carried by the following vote:

FOR DEFERRAL:	Bynum, Nakamura, Yukimura, Furfaro	TOTAL – 4,
AGAINST DEFERRAL:	Chang, Kualii, Rapozo	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: I am honored that you chosen me to be Chair these two (2) years but at the same time, I do want to say, I try to do my best to create a level playing field here so that everybody has time to speak. I also want to reinforce that I got some very positive comments from the business community on this product.

C 2012-373 Communication (08/08/2012) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Non-Compliant Sexual Offender Unit Federal funds in the amount of \$145,000.00, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for salaries, fringe, and operational expenses for the Office of the Prosecuting Attorney Non-Compliant Sex Offender Unit for the term commencing December 1, 2012.

Mr. Kualii was noted recused from this item due to his employment with the YWCA.

Ms. Nakamura moved to approve C 2012-373, seconded by Mr. Chang.

There being no objections, the rules were suspended.

Chair Furfaro: Shay, could you just give an overview?

Ms. Iseri-Carvalho: Yes, we had collaborated in the beginning of the year with the Police Department because we had received notice from the Notice from the Hawai'i Criminal Justice Data Center that keeps track of all of these sex offender registration in the entire State. There was a concern on our island because... and across the State and with respect to our island, there was some concern because the amount offenders that were not in compliance with their registration requirements were in our opinion quite high. It was up to thirty-three percent (33%). We have approximately a hundred and twelve (112) or so sex offenders that are supposed to be registered in this data base and there was approximately twenty-five (25) of them that were not in compliance for various reasons. Either they had moved from their residence and had not informed the Hawai'i Criminal Justice Data Center or the Attorney General, or a lot of them become homeless. When you are homeless the rules change as far as how many times you need to check in with the Police Department, it is every thirty (30) days as opposed to every year. A lot of the sex offenders were not necessarily aware of the different periods of registration. There was also a concern about the data base that the Police Department had and we wanted to improve that because normally

there is a warrant outstanding that would show up in red, and when the officer stops a person whether it is for a traffic offense or any other type of offense, they would automatically check in if there were warrants outstanding. There was no system initially set up where it would automatically indicate to an officer when a person was stopped whether or not a sex offender was in compliance and so we had worked with the Kaua'i Police Department to ensure that there would be implemented in their data base system a red code to indicate that that person was not in compliant. We work with the U.S. Marshal's Office, the Police Department, Deputy Chief Michael Contrades initially chaired that Committee, and he also got Sergeant Morita. We worked extensively for three (3) months in gathering all of the data in actually going out to the residences, doing house checks to see if the registration information that was provided the data base with the Hawai'i Criminal Justice Data Center was current. There was sweep because most of them were not. We arrested approximately twenty-five (25) people who were not in compliance. There were some that were more egregious than others, there were some that did not register for approximately ten (10) years and had been out committing new crimes, there were others that had become homeless and that is always a concern with a sex offender when you do not know their registration information and it changes from day to day. There were some that just missed it by thirty (30) days and it was just they are supposed to register within thirty (30) after their birth date. There were a lot of charges that were brought against a lot of offenders. What our concern was for... was to ensure that the persons that were the most egregious would serve prison time, and the ones that had just forgotten to register their new car or register their new change in employment, would be amended to misdemeanors and there would be no jail time. In any event, that program was very successful and we actually became a model for the State in developing... in our processes and what we had set up as our policies and procedures and ensuring that sex offenders who are not registered by the deadlines that they are supposed to be registered are immediately looked at. We have a particular file where we automatically keep track of the dates that they are supposed to register. We also set up a liaison with the Kaua'i Police Department who is Captain Dave Ford who then would get... he and I would get the list from the Hawai'i Criminal Justice Data Center every month of persons that were not compliance so we do not fall back, where we did not check on these guys for ten (10) years or five (5) years. We check on all these sex offenders within five (5) months, and that takes a lot of time because if they are not around, you need to check on their relatives, all their prior registration of vehicles, a background check not of course as intensively as a police officer but definitely there is a lot of background checks that we need to do. This was causing some drain on our resources because of the volume of amount of sex offenders that were already on the list and the amounts that were getting convicted that were coming on the list. There were new sex offenders that were also having been put on the list and that was when we saw an opportunity to ask for funding to try to support a unit who would keep up to dates so that we do not fall back into what we had before, especially because we had back in July, we got the Feds,

County, and the State together to hold a training here and we sponsored that training. Because of that training, we almost had about ninety percent (90%) corporation from the sex offenders and that they were actually coming to us to ensure that they were registered properly as opposed to having our resources go out. There were still some egregious sex offenders that we still have not been able to locate and that was the whole purpose of applying for this grant, was to keep track of this thirty-five (35) or so persons on a monthly basis to ensure that they are properly updated, properly given notice, photographs every time that you check in for a year, a new photograph has to be taken. There is an extensive form that they have to fill out of all the different kinds of changes. Currently, the staff that does it is a Records Supervisor and again the records staff as you have heard from the Police Department is... they are tasked with inputting all of the other records. We are hoping that they could get additional personnel to track the sex offenders and ensure that all the requirements that they were subjective to were being told or given notice to the sex offender and also followed. That in a nut shell is why we applied for this Sex Offender Registration Unit.

Ms. Yukimura: I just wondered why you need an attorney for this.

Ms. Iseri-Carvalho: To prosecute the cases.

Ms. Yukimura: It is commendable that you discovered this backlog and got it back on track by this sweep but after that there are twenty-five (25) people who are supposed to be registered that have not been registered and those are the ones you are taking to Court, right?

Ms. Iseri-Carvalho: Only up until that month, right? Remember when we had gone back and checked, every month they send us a list. Every month they send us a list. In that month that we had discussed when we did the press release that we had twenty-five (25).

Ms. Yukimura: Right.

Ms. Iseri-Carvalho: When we started out.

Ms. Yukimura: So the attorney has to file some papers in Court?

Ms. Iseri-Carvalho: Yes.

Ms. Yukimura: Once you file papers in Court, is there much complexity to take care of it?

Ms. Iseri-Carvalho: You have to take it to trial if they contest the issue.

Ms. Yukimura: How many contest?

Ms. Iseri-Carvalho: Well, we got right now, I believe six (6) people that plead and we have got twenty...

Mr. Delaplane: There were a total of twenty-five (25), so approximately nineteen (19) that were contesting the charges. I think that the point you are bringing is probably why we got into the situation that we are in, in the first place. For a long time there was this idea that these non-compliant sex offender cases, they are just paper cases, right? They either did not sign the form or they did sign the form and it is fairly black and white if they did sign the form than no problem, if they did not, we prosecute them and it is fairly easy to prove. That is not the case, the way our sex offender registry is written, they are very complicated and these tend to be very witness intensive cases. You would have to go back and interview people, the separate residences they were living at, you have to figure out which of the eleven (11) ways to violate the sex offender registry form, and which one is proper to charge them under and the charges are also very difficult. In looking at these cases when we did this project, we realized that these are very complex cases and of course very intense oversight and it really needs to come from a Prosecuting Attorney because we are involved in the process from the identification phase. Not only indentifying who the offenders are but also all the warrants that need to be obtained, Court orders, cell phone records, anything like that that may be needed to prove some of these cases because again against the popular perception, these are very difficult cases to prove and that is why we have nineteen (19) people that are trying to contest them and go to trial. They do realize there is a whole lot evidence that needs to be submitted in order to get that conviction at trial.

Ms. Yukimura: This is a one (1) year program?

Mr. Delaplane: Yes.

Ms. Iseri-Carvalho: Yes, the grant is only for one (1) year.

Ms. Yukimura: I can see actually trying it and seeing how it works. Thank you.

Chair Furfaro: Questions? And I just wanted to remind members at 4:30 we have got a conference call and we still have the Engineering Department here.

Mr. Rapozo: This program will utilize the existing KPD personnel?

Mr. Delaplane: Yes.

Mr. Rapozo: So, the only staff would be in your office?

Ms. Iseri-Carvalho: We have a legal clerk one (1).

Mr. Rapozo: Correct, but that is going to be...

Ms. Iseri-Carvalho: In our office.

Mr. Rapozo: Right, and seventy-five percent (75%) funding by the grant?

Ms. Iseri-Carvalho: That is correct.

Mr. Rapozo: I just want to say that I was invited to the training that was put on from the Hawai'i Criminal Justice Data Center up at the Mayor's Conference room and this is really for my colleagues and for the public. I cannot remember who the trainer was...

Ms. Iseri-Carvalho: Jamie.

Mr. Rapozo: But she had commended Kaua'i Police Department and the Prosecutor's Office and basically said that she was going to take back Kaua'i's program as a model for the other Counties because it was so successful. I know the devastation when a sexual assault is reported and once law enforcement finds out that it is a prior sex offender and that in fact these guys are... I think a lot of people do not understand the complexity to register. If you change your car, whatever you change in your life, you have to report. There is several on Kaua'i that are in violation on a daily basis, they are constantly moving, constantly changing vehicles. I think this is a good program and I will obviously be supporting it but I do expect the majority, if not all of these people get prosecuted because we do need to make sure that our residents are safe and they have the information of where these sex offenders are located. Part of this will be putting pictures in the newspaper and I am assuming that it is all going to be a part of this grant that in fact we will be notifying the public, putting up the most wanted pictures of these guys, I am assuming that is all going to be part of the grant?

Ms. Iseri-Carvalho: Yes.

Ms. Nakamura: Thank you for that update and clearing the backlog and making our database most current, that is great news to hear. Just a recommendation on your performance indicators, there are ten (10) different indicators... well, not really, I do not think they are numbered accurately but there

are about six (6) indicators there, I would like to recommend be reduction of percent of re-offenders. Those are good outputs that you have but the outcome eventually is that the reduction... if you do not mind.

Ms. Iseri-Carvalho: That is a great recommendation, thank you.

Chair Furfaro: Members, if you do not have any more questions, I will take public testimony and I would like to vote on this item.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Bynum: We had this information a week in advance, I was able to review it, and I am in support of this grant.

Ms. Yukimura: I think this looks like a good program and it is worth trying and thank you very much. I will be voting for it.

Mr. Rapozo: This is out to the sexual offenders that have not reported, you still have time to turn yourself in before this unit gets formed and you get arrested. Go turn yourself in and make it easy on yourself.

Chair Furfaro: I think is an outstanding pursuit of this grant and I want to thank the Prosecutor's Office for the same. On that, I would like to do a roll call vote.

The motion to approve C 2012-373 was then put, and carried by the following vote:

FOR APPROVAL: Bynum, Chang, Nakamura, Rapozo, Yukimura,	
Furfaro	TOTAL – 6,
AGAINST APPROVAL: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0,
RECUSED & NOT VOTING: None	TOTAL – 1.

Chair Furfaro: We do have an Executive Session that we will be going into at 4:30 and we need to have that before we connect on the other items. What I would like to do is jump to Mr. Dill, if I can? Some of you got some copies of this and I want to reference Councilmember Nakamura's commentary about the change of the way we do business. I want to say correspondence number one (1) went to the Administration on March 23rd giving them the guidelines for transmitting to Council agendas as well as what the expectation is on the response. Our Committee Meeting's are two (2) weeks apart, our Council Meeting's are two (2) weeks apart, and we hope for ten (10) day response. Also, requesting items to get on the agenda, it is the Wednesday before the meeting because we finalize the agenda on Thursdays. A second notice was sent out on August 31st and I would to

just remind the County Attorney's Office and other Department Heads here that it is the intent after one (1) request, after two (2) request, it is no longer a... it is the law. No more rsvs and that is the direction we are heading and I hope that... we are revisiting that with you. That is the process we are changing. My staff is reminding me of when they have to submit their written pieces, but the memorandums are there.

C 2012-375 Communication (08/21/2012) from the Chief of Wastewater Division, requesting Council approval to apply for, receive, and expend Federal Environmental Protection Agency (EPA) grant funds in the amount of \$970,000.00, with a 45% local (County in-kind) and 55% Federal match, for final design and construction following completion of the NEPA document, and planning and preliminary design work for the Waimea Wastewater Treatment Plant Expansion R-1 Distribution System: Mr. Chang moved to defer C 2012-375, seconded by Ms. Yukimura, and unanimously carried.

C 2012-377 Communication (08/23/2012) from the Chief of Roads Division, requesting Council approval to purchase an Ace Welder/Acetylene Oxygen Cutting Unit Equipment to assist the repair and maintenance operations of the Bridge Maintenance and Traffic Signs Markings Branch of the Special Construction Section, estimated at approximately \$5,617.66, which is available in the Roads Division's Operating account: Mr. Rapozo moved to approve C 2012-377, seconded by Mr. Chang.

There being no objections, the rules were suspended.

LARRY DILL, County Engineer: First of all, Ed Renaud is sick today, so I am filling in for Ed. I will do my best to answer any and all questions today. This is a request for Council approval to expend these funds. The money are available in the Operating account, though this particular piece of equipment was not indentified during budget.

Chair Furfaro: When you submitted your equipment list, this was not on it. The funds are available?

Mr. Dill: The funds are available but it was not on the list that is correct.

Chair Furfaro: Members, any questions for Mr. Dill? Thank you, Mr. Dill.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2012-377 was then put, and unanimously carried.

C 2012-378 Communication (08/23/2012) from the Chief of Roads Division, requesting Council approval to replace one (1) Tree Wood Chipping Machine (Eq. No. 211C) that is currently essential to operations, estimated at \$38,140.00, which is available in the Roads Division's Operating account: Mr. Bynum moved to approve C 2012-378, seconded by Ms. Nakamura.

Chair Furfaro: Again, I believe this is an item where the moneys are available in the account but failed to make the equipment list. I want to thank Mr. Dill for his conservative approach of identifying all items and not just filling out a... let us say "shopping list," they have set some priorities and that is much appreciate.

There being no objections, the rules were suspended.

Ms. Yukimura: Is this a normal replacement that is at the end of a normal lifespan?

Mr. Dill: Yes, and the difference between this and the other piece of equipment is this is a replacement. We had hope to actually repair the other piece of equipment that determined that it is beyond repair. Especially, we seem to be getting more and more request for trimming trees and taking down trees. It also makes sense from an efficiency standpoint to invest and replace the old one.

Ms. Yukimura: Do you have protocols for proper maintenance and oiling and so forth and proper trainings of employees for the proper operation of this equipment?

Mr. Dill: Yes.

Ms. Yukimura: That is good to hear.

Mr. Rapozo: Larry, I would agree that we need to provide our guys with the necessary equipment so they can do their job. My question is how much available funds do we have in this Roads Division Operating account that I guess is unaccounted for... obviously if we are spending forty-four thousand today, are we taking away from other projects or something else?

Mr. Dill: I am not able to answer how many dollars are actually available in the Operating Account but we are not taking away from other projects. We have to watch our funding carefully as we use this money for this purpose as opposed to having it available say for other purposes towards the end of the year. We have some moneys available for unanticipated advance and such. If

we have a big storm for instance, that will deplete those funds. We are... the reality is we are taking away from a little bit of our buffer here by doing this. We reviewed that actually and determine for the efficiencies we gain, it is a worthwhile investment.

Mr. Rapozo: Yes, I do not have a problem with the expenditure but I am just concerned and trying to figure out where it is coming from. I am assuming that the Operating Account has sufficient funds.

Mr. Dill: Yes.

Mr. Rapozo: Okay.

Mr. Dill: We budget anticipation for instance of a certain amount of overtime during the year and that is coming from that area.

Mr. Rapozo: Oh, that is where it is going to be coming from?

Mr. Dill: Yes.

Mr. Rapozo: That was going to be my next question. Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2012-378 was then put, and unanimously carried.

Chair Furfaro: Mr. Dill, I had shared with you by phone this week that the next item, although Allison is on vacation until October 10th, I felt that there were enough of us that were familiar with this item. We have done it before, but we might move forward with an approval if you came over to be a Q&A person in place of Allison. If we become uncomfortable, we will ask for a deferral.

C 2012-379 Communication (08/29/2012) from the Environmental Services Management Engineer, requesting Council approval to accept a grant not to exceed \$100,000.00 from the State Department of Health for Electronic Device Recycling including community collections, education and outreach, and reporting activities.

Mr. Tanigawa: I have a little preference that I would like to share with you folks to provide a little background for this request. We are requesting an approval to receive and expend a hundred thousand dollars from the State Department of Health for the purpose of electronic device recycling. In January 2010, the State of Hawai'i past the Hawai'i Electronic Waste and Television

Recycling Recovery Act. Requiring electronic manufactures to provide recycling programs for certain types of electronic deemed cover electronics. Unfortunately, programs offered on the neighbor islands have mainly included mail back type programs which is perceived to be very inconvenient to the public. These limitations have resulted in the State offering more convenient on island programs for the outer islands for certain covered electronics which is why they approached the County with these funds. For the past few years, the County has sponsored annual e-waste recycling events. This is an opportunity for us to obtain additional funding to improve on those programs that we provide.

Chair Furfaro: Thank you very much.

Ms. Yukimura: The State is offering this to the Counties?

Mr. Tanigawa: That is right.

Ms. Yukimura: It is coming from their initiative to want to get things done and they are the primary implementer of that State law regarding electronic waste recovery?

Mr. Tanigawa: Yes.

Mr. Dill: They are the funder and we are the implementer.

Ms. Yukimura: Yes, thank you for that clarification.

Mr. Rapozo: I am looking at the contract – the State of Hawai'i contracts with us?

Mr. Tanigawa: That is correct.

Mr. Rapozo: And then we contract with someone else?

Mr. Tanigawa: We are able to take the funds and utilize to how we see would best fit our program.

Mr. Rapozo: I notice here the notice to proceed from the State was July 12, 2012. Did we proceed? Did we hire someone?

Mr. Tanigawa: No. We have not taken any steps to utilize the funds, we are here today to request your approval to receive and expend funds.

Mr. Rapozo: But we already applied?

Mr. Tanigawa: It was not...

Mr. Rapozo: Apparently because we already have the notice to proceed.

Mr. Tanigawa: Well, the State approached the County. There was no application process.

Mr. Rapozo: There is no application?

Mr. Tanigawa: No.

Mr. Dill: Right, and actually there is a deadline for us by the end of last fiscal year to get it in place.

Mr. Rapozo: Okay.

Chair Furfaro: Larry and Troy, I want to make sure you understand this is a new way of doing business with this Council. You need to apply with us before you move forward. If you are not... or in this circumstance you have the State approaching us and so forth, we would like a communication to the Council implying exactly how you were approached.

Mr. Dill: I understand.

Chair Furfaro: Very good.

Mr. Kuali'i: It is the State's program according to the law where they collect the funding from the manufactures are responsible to pay for these programs, so that is why the State has to put the money to the different Counties to this electronic device recycling special fund of State money... to do the job basically.

Mr. Tanigawa: There is a special State fund that is created by fees that manufactures pay to bring their electronics to the State and sell. Also fines, should the State (inaudible) for non-compliance, all those funds go into this special account and this is where the portion of this...

Mr. Kuali'i: And this is the first, second, third year?

Mr. Tanigawa: This is the first year that the State has approached us.

Mr. Kuali'i: First, that is being done this way... Thank you.

Ms. Yukimura: Larry, you said something about we had to do it by the end of the last fiscal year, did I hear right?

Mr. Dill: That is correct.

Ms. Yukimura: So, we are a little late in this or they were late in approaching us?

Mr. Dill: We were late in coming to Council. As the Council Chair just went over, we should have been here earlier with this contract. There was no application process, the State approached us.

Chair Furfaro: There are times when we recognize the State is late too, they might have been late in approaching you...

Mr. Rapozo: Did we receive the funds or not?

Mr. Dill: No.

Mr. Rapozo: That, we have not received?

Mr. Dill: Correct.

Mr. Rapozo: I guess I am trying to understand what do you mean when you were late? When did the State come to us?

Mr. Dill: I do not know when they first approached us about that.

Mr. Rapozo: I see the notice to proceed is dated July 12th.

Mr. Dill: Our deadline to get this agreement with them in place was June 30 – end of last fiscal year. They approached us prior to that date of month, I cannot tell you what that exact date was. We could have come before you sooner to apprise you of these moneys being made available to us by the State.

Mr. Rapozo: I have a question for the County Attorney after they are done.

Chair Furfaro: Well, that was nice of them, they gave you at least eighteen (18) days notice until the deadline.

Mr. Dill: I do not know the number of days. It was probably more than that.

Chair Furfaro: Mr. Castillo.

Mr. Rapozo: Al, I think you know what I am going to ask out in the spirit of fairness and consistency is this causing a problem with the Charter?

Mr. Castillo: You have your budget proviso and it does say approval first and we did have that conversation.

Mr. Rapozo: Right and I just want to know the last time you came up and I am just wondering this is not the first time since that discussion that this had occurred. I just want to be fair and consistent with all the Departments is what I am trying to say.

Mr. Castillo: I understand where you are coming from and like I said, it is not consistent with the budget proviso.

Mr. Rapozo: It is not consistent?

Mr. Castillo: It is not consistent with the budget proviso.

Chair Furfaro: For all members, I want you to know that I initiated three (3) of our staff members to go to Honolulu for procurement procedures specifically as it relates to this for their training. They returned and you have some of the things that were covered in your mail boxes when you returned today from sending those individuals to procurement trainings.

Ms. Yukimura: I too wanted to apply the rules the same way which is why I asked the County Engineer whether I heard correctly about it being within the year... but this is not legislatively appropriate money, so it is not about encumbering legislative appropriations. It is not about coming to us before they applied because they did not apply and did not have to apply, right?

Mr. Castillo: Right...

Ms. Yukimura: So, how is it not consistent?

Mr. Castillo: And if you want distinctions to be made so that I can reconcile both cases that you are referring to, I can do so at another point in time. I do remember the discussions that I had on the floor and I specifically do remember the position that Councilmember Rapozo took at that time and what he is saying right now.

Chair Furfaro: Al, as you know the proviso is in the narrative of the budget. I would appreciate that you have a heads up in two (2) weeks we would like to have some dialog about it.

Mr. Castillo: Okay, I will have something in written form for the Council.

Mr. Rapozo: Should we approve this today based on what you are saying? This case is a little different because this one (1) a contract has entered into.

Mr. Castillo: Yes, but...

Mr. Rapozo: And the Charter requires all contracts to come here first.

Mr. Castillo: That is where, for me in terms of making the legal distinction and in terms of applying what "shall" means and in terms of applying what application means. You have a situation here where the State has come to us saying that we have some money for you. Although they have a notice to proceed, you are right in your analysis that last time, this is similar to that where they Department is here telling you that they are on suspension right... the request is... I should not say suspension but it is not going anywhere until you the Council approves this request. I do not see...

Mr. Rapozo: So, it is okay?

Mr. Castillo: Yes, but if you want... if you approve it, you approve it. Whether or not it is legal, I cannot say that it is illegal.

Mr. Rapozo: Al, because there is a difference between and this is a serious concern of mine, there is a difference between the last issue because that was basically a budget item – it was a budget proviso. But I believe the Charter requires all contracts and in this case this is a contract that the State is contracting the County of Kaua'i, it is not a grant in that sense. It is they are contracting with us and we entered into that contract without any Council approval which I think may be a problem with the Charter and not just the budget proviso. I cannot see how it was not appropriate the last time and appropriate today and that is what I am trying to get some consistency.

Mr. Castillo: I understand and in terms of doing the legal distinction and distinguishing both, I would need more time but I do understand where you are coming from.

Chair Furfaro: Al, you have a memorandum from me about this and we just talked about having some distinctions made in two (2) weeks. There are a lot of things we are trying to revisit, follow the standards, and as the memorandum I just read a few minutes ago, the message has to be getting to the Department Heads. This is really important. We look forward for your agenda item in two (2) weeks to answer Mr. Rapozo but this is not something that has just started happening. We got to tighten it up.

Mr. Kuali'i: I am not clear I understood the answer when he asked whether we should approve this or not today, did you say that we could approve it and then it might not be legal what we are doing? Should we just wait then? You are our attorney to advice us, right?

Mr. Castillo: What I need to do is... let me consult with the Department for a few minutes and then I can come back later. I know for a fact that this has been vetted already, so if I can have that answer for you in about five (5) to ten (10) minutes.

Chair Furfaro: Let me just have a shake of the head from the County Engineer, can you wait two (2) weeks on this item? Yes? Let us deferred it and wait for this discussion in two (2) weeks.

Mr. Bynum: I do not have a question for the attorney but I wanted a chance to say something before we move to defer.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Bynum: This came up a few weeks ago and I heard Councilmember say on the floor that... because we do a lot of these "permission to apply, receive, and expend." I heard Councilmembers say "that happens a lot," and that was news to me and I know that the Chair has followed up with memos since saying "we mean it... before you apply, receive or expend – you need to bring it here first." I think this is one (1) example and others proved the point where that is good practice for the Council to do their oversight, we have to be consistent with all Departments and there is a really good reason why new grants and new contracts need to come here before those processes and I appreciate that the Chair has sent that memo over to make it clear. It was news to me that it was not... that there was more than one (1) instance of that. I just wanted to put that on the record.

Chair Furfaro: I am going to ask for a motion to defer but we will have answers to our questions in two (2) weeks, right? Thank you.

Mr. Rapozo: I just want to make sure that the question... it is not similar situation because in this case, there was no application. But it appears as I read the attached contract... my bigger concern is the fact on July 12, 2012 – I do not know why... I am sorry, June 25, 2012, the County signed the contract on June 25, 2012 that was signed by the Director of Finance, and approved by the County Attorney, and I cannot read that writing... looks like...

Ms. Nakamura: Jodie.

Chair Furfaro: She is here in the audience.

Mr. Rapozo: Jodie, okay. Looks like on June 25 and so we signed it first and then the State signed it on July 12 which I would assume that is why the notice to proceed was on July 12. I believe the Charter requires all contracts involving the County and I could be wrong... I do not have the Charter in front of me but that the Charter requires contracts that the County enter into to be brought to the Council...

Chair Furfaro: Al, no need, we are going to have you in two (2) weeks.

Mr. Rapozo: I am forming my question that will be sent over. That can be answered, that is going to be the premise for my question.

Chair Furfaro: You go ahead and frame your question, I am going to be looking for that deferral and my message again as it has been on line all day today besides the correspondence I have already sent going back as far as March, the Department Heads need to realize that going to the County Attorney on something that is of urgency does not necessarily authorize the bypassing of the Council. Simple as that. Al, we will see you in two (2) weeks.

Upon motion duly made by Mr. Kualii, seconded by Mr. Chang, and unanimously carried, C 2012-379 was deferred.

Chair Furfaro: I would like to go to Mr. Rapozo's item before we go into Executive Session and we still have a lot of the agenda to go back to but as it relates to your HSAC, Mr. Rapozo, could we have that read.

C 2012-380 Communication (09/20/2012) from Councilmember Rapozo, requesting Council approval to include a proposed Bill for an Act relating to the Public Land Development Corporation (PLDC) in the 2013 Hawai'i State Association of Counties (HSAC) and County of Kaua'i Legislative Package: Mr. Rapozo moved to receive C 2012-380, seconded by Mr. Kualii.

Mr. Rapozo: As I stated being the action that we took this morning, this is no longer valid or needed.

Chair Furfaro: You are going to communicate that Resolution appropriately?

Mr. Rapozo: Correct.

The motion to receive C 2012-380 for the record was then put, and unanimously carried.

There being no objections, the rules were suspended.

Mr. Castillo: The next item for your consideration is ES-575.

EXECUTIVE SESSION:

ES-575 Pursuant to Haw.Rev.Stat. §§92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(E), the purpose of this executive session is to provide the Council with a briefing on the P.O.H.A.K.U. Program, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

The meeting was called back to order, and proceeded as follows:

Mr. Rapozo moved to convene in Executive Session for ES-575, seconded by Mr. Chang, and carried by the following vote:

FOR CONVENING IN EXECUTIVE SESSION:	Bynum, Chang, Kuali'i, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST CONVENING IN EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

There being no objections, the meeting was in recess at 4:35 p.m. for the purpose of Executive Session.

The meeting was called back to order at 6:31 p.m., and proceeded as follows:

Chair Furfaro: We are back from Executive Session and I would like to take the appropriate action on this item.

C 2012-381 Request from the Office of the County Attorney for authorization to expend up to \$10,000.00 for special counsel's continued representation of the Office of the Prosecuting Attorney concerning the P.O.H.A.K.U. Program, and related matters.

Mr. Rapozo: I would like to make a motion to approve but the recommendation from the County Attorney was to amend the amount to fifteen thousand dollars (\$15,000.00). There was some unanticipated... anyway the recommendation is to approve up to fifteen thousand dollars (\$15,000.00).

Mr. Bynum: I would like to amend that to twenty thousand dollars (\$20,000.00) because I think we are going to need it.

Chair Furfaro: First of all, I need a motion to approve.

Mr. Rapozo moved to approve C 2012-381, seconded by Mr. Bynum.

Chair Furfaro: We have an amendment to amend the amount which was corrected from fifteen to twenty, and I would like to have a roll call vote on that.

The motion to amend C 2012-381 for the amount up to twenty thousand dollars (\$20,000.00) was then put, and carried by the following vote:

FOR AMENDMENT:	Bynum, Kualii, Nakamura, Rapozo	
	Furfaro	TOTAL - 5,
AGAINST AMENDMENT:	Yukimura	TOTAL - 1,
EXCUSED & NOT VOTING:	Chang	TOTAL - 1,
RECUSED & NOT VOTING:	None	TOTAL - 0.

The motion to approve C 2012-381 as amended was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Kualii, Nakamura, Rapozo	
	Furfaro	TOTAL - 5,
AGAINST APPROVAL:	Yukimura	TOTAL - 1,
EXCUSED & NOT VOTING:	Chang	TOTAL - 1,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: For the purposes of time and our staff, by contract we are supposed to have a dinner break. We have a few items on today's agenda that still have to be voted on and then we have several Executive Sessions. May I ask the County Attorney to come up just for a moment?

There being no objections, the rules were suspended.

Mr. Castillo: Good evening Council Chair and Councilmembers.

Chair Furfaro: Al, because of the time... on next week we have already scheduled a Special Council Meeting, I am looking for a motion to take the other four (4) Executive Sessions and merge them into next week's Special Council Meeting, would that be acceptable to you?

Mr. Castillo: Yes, I have already alerted the attorneys involved.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: We are going to continue with the rest of our Council agenda and then I am looking for a motion to defer for a week the Executive Sessions.

ES-572 Pursuant to HRS sections 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session with the Council, to allow Council to consult with the County Attorney regarding the claim against the County by Keith K. H. Young and Sylvia J. Luke, of the law firm of Cronin, Fried, Sekiya, Kekina & Fairbanks, on behalf of Jeffery Sampoang, filed on July 31, 2012, and previously on the Council's Agenda as C 2012-351, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Rapozo moved to defer ES-572 to Special Council Meeting October 3, 2012, seconded by Mr. Bynum, and unanimously carried.

ES-573 Pursuant to HRS sections 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session with the Council, to allow Council to consult with the County Attorney regarding the claim against the County by Verna Rita, filed on July 10, 2012, and previously on the Council's Agenda as C 2012-353, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Rapozo moved to defer ES-573 to Special Council Meeting October 3, 2012, seconded by Mr. Bynum, and unanimously carried.

C 2012-387 Communication (08/28/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Manuel J. Soares, for damage to his vehicle, pursuant to Section 23.06 Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2012-387 to the County Attorney's Office for

disposition and/or report back to the Council, seconded by Mr. Kuali'i, and unanimously carried.

C 2012-388 Communication (08/28/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Melvin Manibog, for damage to his vehicle, pursuant to Section 23.06 Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2012-388 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Kuali'i, and unanimously carried.

COMMITTEE REPORTS:

COMMITTEE OF THE WHOLE REPORT:

A report (No. CR-PL 2012-21) submitted by the Committee of the Whole, recommending that the following be approved on second and final reading:

"Bill No. 2447 - AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND - CIP,"

Mr. Kuali'i moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried. (*See later for Bill No. 2447*)

A report (No. CR-PL 2012-22) submitted by the Committee of the Whole, recommending that the following be approved on second and final reading:

"Bill No. 2448 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING AMOUNTS ESTIMATED IN THE GENERAL FUND,"

Mr. Kuali'i moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried. (*See later for Bill No. 2448*)

Proposed Draft Bill (No. 2450) - A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO ZONING DESIGNATION IN LIHU'E, KAUAI (*Department of Water, County of Kaua'i, Applicant*): Ms. Nakamura moved for passage of Proposed Draft Bill No. 2450 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 24, 2012, and that it thereafter be referred to the Planning Committee, seconded by Ms. Yukimura.

The motion for passage of Proposed Draft Bill No. 2450 was then put, and carried by the following vote:

FOR PASSAGE:	Bynum, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chang	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Bill No. 2433, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AMENDING THE COMPREHENSIVE ZONING ORDINANCE IN ITS ENTIRETY: Ms. Nakamura moved to defer Bill No. 2433, Draft 1, seconded by Mr. Kualii.

The motion to defer Bill No. 2433, Draft 1 was then put, and carried by the following vote:

FOR DEFERRAL:	Bynum, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chang	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Bill No. 2447 – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND – CIP: Mr. Bynum moved to adopt Bill No. 2447 on second and final reading and that it be transmitted to the Mayor for his approval, seconded by Mr. Kualii.

The motion to adopt Bill No. 2447 on second and final reading was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chang	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Bill No. 2448 – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING AMOUNTS ESTIMATED IN THE GENERAL FUND: Mr. Rapozo moved to adopt Bill No. 2448 on second and final reading and that it be transmitted to the Mayor for his approval, seconded by Mr. Kualii.

The motion to adopt Bill No. 2448 on second and final reading was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Kualii, Nakamura, Rapozo,
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	Yukimura, Furfaro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chang	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

ES-571 Pursuant to HRS section 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session to allow the Council to consult with the County Attorney regarding how the Kaua'i Police Department conducts its operations involving surveillance helicopters, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Bynum moved to defer ES-571, seconded by Ms. Yukimura, and carried by the following vote:

FOR DEFERRAL:	Bynum, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chang	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

ADJOURNMENT.

There being no further business, the meeting was adjourned at 6:41 p.m.

Respectfully submitted,



RICKY WATANABE
County Clerk

/ds

SEPTEMBER 26, 2012

FLOOR AMENDMENT

INTRODUCED BY: MEL RAPOZO, COUNCILMEMBER

RESOLUTION NO. 2012-52, Resolution Urging the 2013 Hawai'i State Legislature to Repeal Chapter 171C of the Hawai'i Revised Statutes (Act 55, Session Laws of Hawai'i 2011) Relating to the Department of Land and Natural Resources and the Public Land Development Corporation (PLDC).

1. Amend paragraph number twelve (12) of Resolution 2012-52, as follows:

“BE IT FINALLY RESOLVED, that a copy of this Resolution be forwarded to the Honorable Governor Neil Abercrombie, all State Senators and State Representatives, the Hawai'i State Association of Counties, and the Mayors of the Counties of Kaua'i, Hawai'i, Maui, and the City and County of Honolulu.”

(Material to be added is underscored.)

V:\AMENDMENTS\2010-12 term\09-26-2012 repeal chapter 171C.doc

